

IN THE MATTER OF
THE APPLICATION OF
THOMAS E. BOOTH, LOUIS MORSBERGER
AND ELMER MORSBERGER FOR A ZONING
RECLASSIFICATION FROM B.R.
(UNDISTRICTED) TO B.R.-C.N.S.,
SPECIAL EXCEPTION AND VARIANCES
ON PROPERTY LOCATED ON THE NORTH
SIDE OF FREDERICK ROAD, 1025'
SOUTHEAST OF CENTERLINE OF WEST-
CHESTER AVENUE (64 FREDERICK ROAD) *
1ST ELECTION DISTRICT *
1ST COUNCILMANIC DISTRICT *

OPINION

This matter comes before this Board on a Petition requesting the restoration or confirmation of a Special Exception for a service station and a use in combination with a food store as well as five (5) variances for the required joint area use in combination with a food store. In addition, the Petitioners request a Reclassification of the site pursuant to the Baltimore County Zoning Regulations (BCZR) from a B.R. zone to a B.R.-C.N.S. (Business Roadside - Commercial Neighborhood Shopping).

The Petitioners were represented at the hearing by Newton A. Williams, Esquire. In opening statement and in a letter sent to the Board subsequent to the hearing, Mr. Williams informs us, out of an abundance of precaution, he is requesting a new Special Exception and Variances.

Prior ownership and usage of the site can be reviewed by reviewing the Environmental Site Assessment Report, created by Grotechnical Consulting Services, which was submitted as part of the Petition. According to the report, Mr. Wayne Martin owned the property since his purchase of the property in December 1983.

Case No. CR-91-359-XA Thomas E. Booth; Louis Morsberger 2
and Elmer Morsberger

Prior to that time the property was owned by Highway Petroleum Sales, Inc. The Standard Oil Company owned the property during the period of 1927 through 1937. It is not known if the property was developed as a gasoline station at the time.

The Environmental Site Assessment Report also reviewed aerial photographs of the site and vicinity for indications of previous uses of the property and potential sources of contamination in the site area. Pairs of consecutive aerial photographs were viewed with a stereoscope, which allows the observer a three dimensional view of the ground surface and greatly aids interpretation. Aerial photographs taken in 1952, 1964, and 1971 were reviewed for this site.

According to the report, the photographs dated August 26, 1952 show the site to be undeveloped as a gasoline station. The site had been quarried and vegetation was present over most of the property. Properties adjacent to the site appear to be in a similar condition as today.

Photographs dated May 16, 1964 showed the site to be developed as a gasoline station. The station building was present at the center of the property and the dispensing equipment is located in front of the building. Properties adjacent to the site appear to be in a similar condition as today.

Photographs dated August 31, 1971 showed the site to be in a similar condition as in 1964. The gasoline station appeared to be in operation. Properties adjacent to the site appear to be in a similar condition as today.

Case No. CR-91-359-XA Thomas E. Booth; Louis Morsberger 3
and Elmer Morsberger

The conclusion of the report judging from the aerial photographs, is that the site was first developed as a gasoline station sometime between 1960 and 1964.

Mr. Williams called Thomas E. Booth, one of the Petitioners, to testify first. Mr. Booth testified that he and his partners, the Morsberger Brothers, bought the property at an absolute auction. On cross-examination, Mr. Booth said he did not rely on the site as still having the Special Exception for a gasoline station. He explained what he wanted to do with the site which is detailed on the site plan.

James S. Patton, a Civil Engineer and land planner, was next called to testify as an expert witness. He testified as to the need for the various variances and to the hardship that would occur if these variances are not granted. The proposed variances are detailed on the dedicated site plan submitted with the Petition. Mr. Patton went on to testify that the Department of Environmental Protection and Resource Management (DEPRM) will require a variance for the gasoline station use on this site because the site is within a 100 year flood plain. The site is ninety feet (90') from the South or West branch of the Patapsco River.

Mr. Patton further testified that in his opinion the requirements of Section 502 of the BCZR, Special Exception regulations, will be met when the site is completed as detailed on the dedicated site plan.

Eric Propalis, Zoning Enforcement Inspector for Baltimore County, testified as to the various zoning violations that have

Case No. CR-91-359-XA Thomas E. Booth; Louis Morsberger 4
and Elmer Morsberger

occurred on the site since February 1988. On April 26, 1988, the gasoline station was not in operation and there were various zoning violations. A correction notice was issued on June 30, 1988. On July 21, 1988, Mr. Propalis visited the site and found gas tanks in place in ground, but there were no covers on them. A large pile of dirt was in front of the site, and a large defective tank was above ground to the side of the site. On February 22, 1989, Mr. Martin, owner of the property, was brought into District Court because of these violations. The charges at this hearing were Not-Processed.

On July 18, 1989, Mr. Martin was again charged in District Court for having an open dump on the property. He was fined \$20,000, but this fine was suspended and he was given ninety (90) days to clean up the property. Again on January 2, 1991, Mr. Martin was charged in District Court as having the property in the same condition as before and was granted probation before verdict.

At the January 2, 1990 hearing, Mr. Propalis told Mr. Martin that the property had been abandoned, and that any gasoline station on this site would be a new station that would have to apply for a new Special Exception and a zoning change.

Because of the loss of the Special Exception or non-conforming use of this property, Mr. Martin's bank foreclosed on him which caused the property to be auctioned off. At this auction, the Petitioners were the successful bidders.

Phyllis C. Friedman, Esquire, People's Counsel for Baltimore County, was present to defend the present zoning maps and to oppose the requested Special Exception. Ms. Friedman would call Mr. Wayne

Case No. CR-91-359-XA Thomas E. Booth; Louis Morsberger 5
and Elmer Morsberger

Martin the prior owner, who is a Protestant in this case. Mr. Martin's testimony would be substantially the same as Mr. Propalis'.

There has been testified to in this case several times that there would have to be a variance granted for this site in order for the gasoline station to be operated on this site. The Board feels that this is a function of DEPRM. Unfortunately, this Board must make a decision at this time on the evidence presented during the hearing.

The Board after reviewing all of the testimony, exhibits, and arguments finds that the evidence does not meet the requirements as listed in Section 502 of the BCZR. The traffic pattern within the site and from the site is tortured and very unsafe. The existing structures are within a 100 year flood plain, which makes a gasoline station use of this site inappropriate within the meaning of Section 502 of the BCZR. The property lost its Special Exception or non-conforming use as a gasoline station because of the abandonment of the use.

Therefore, this Board will issue an order denying the request for Special Exception. The requests for Variances and a Zoning Reclassification are moot.

ORDER

IT IS THEREFORE this 24th day of October, 1991 by the County Board of Appeals of Baltimore County ORDERED that the

Case No. CR-91-359-XA Thomas E. Booth; Louis Morsberger 6
and Elmer Morsberger

Petition for Special Exception be and is hereby DENIED; and that the Petitions for Variances and Zoning Reclassification be and are hereby MOOT.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Michael B. Sauer, Acting Chairman

John G. Disney

Judson H. Lipowitz

IN THE MATTER OF * IN THE
THE APPLICATION OF *
THOMAS E. BOOTH, et al. *
FOR A ZONING *
RECLASSIFICATION, ETC., FOR *
64 FREDERICK ROAD *
Case No.: CR-91-359-XA
Item #1, Cycle V
1991

ORDER OF APPEAL

Mr. Clerk: Please enter an appeal to the Circuit Court for Baltimore County on behalf of Thomas E. Booth, Louis Morsberger and Elmer Morsberger, Petitioners, from the Order of the County Board of Appeals of Baltimore County dated October 28 1991, in the above matter.

Attached to this Order of Appeal is a Certificate of Compliance with Maryland Rule B-2.

Newton A. Williams

Nolan, Plunhoff & Williams
NOLAN, PLUNHOFF & WILLIAMS, CHTD.
700 Court Towers
210 W. Pennsylvania Avenue
Baltimore, Maryland 21204
(301) 823-7800

LAW OFFICES
NOLAN, PLUNHOFF
& WILLIAMS,
CHARTERED

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of November, 1991, a copy of the foregoing Order for Appeal was mailed postage prepaid to:

County Board of Appeals
County Office Building
Room 315
111 W. Chesapeake Avenue
Towson, Maryland 21204

Baltimore County Zoning Commissioner
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

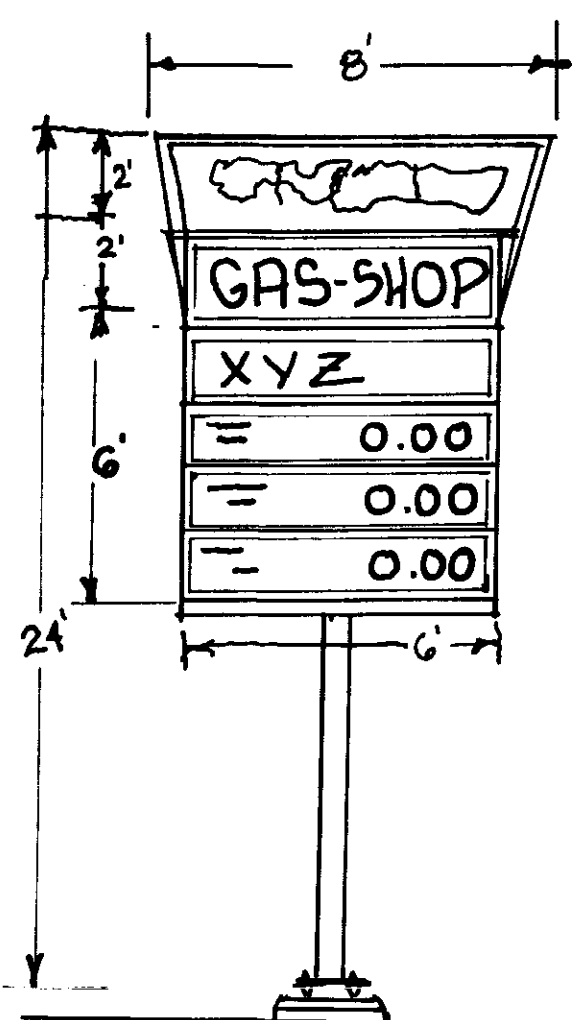
Phyllis Cole Friedman, Esquire
Counsel for Baltimore County
Room 304
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Wayne Martin
5117 South Street
Relay, Maryland 21227

Newton A. Williams

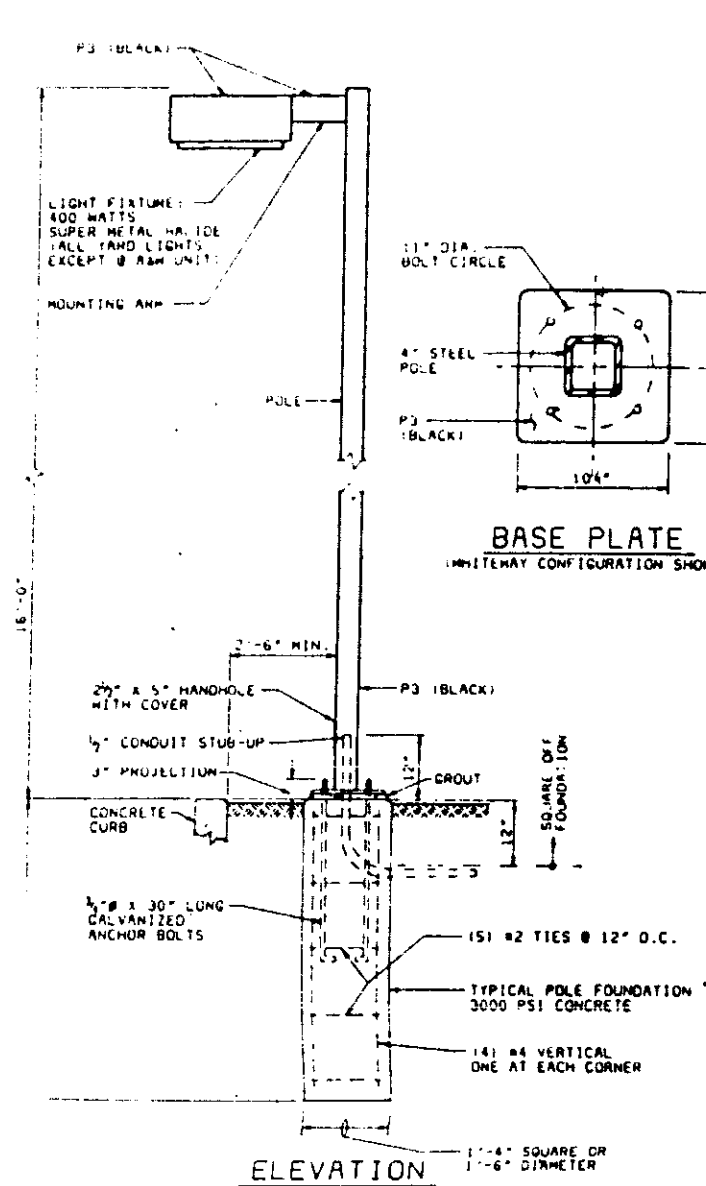
LAW OFFICES
NOLAN, PLUNHOFF
& WILLIAMS,
CHARTERED

9117B(5)



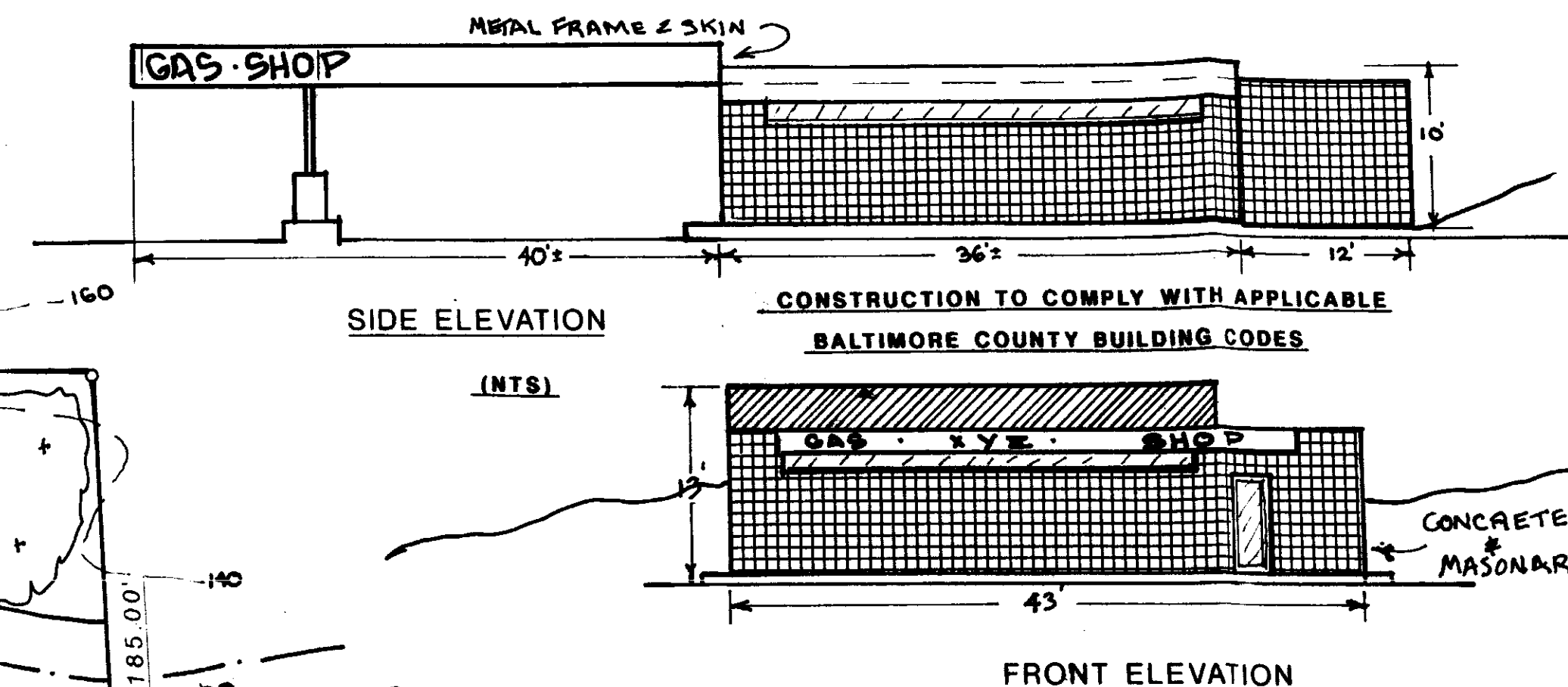
2(72 S.F./SIDE) = 144 S.F.

FREE STANDING SIGN (NTS)



LIGHTING (NTS)

OWNER: FRANCIS McCULLOCH SR.
DEED 982/268
ACCT #123501480

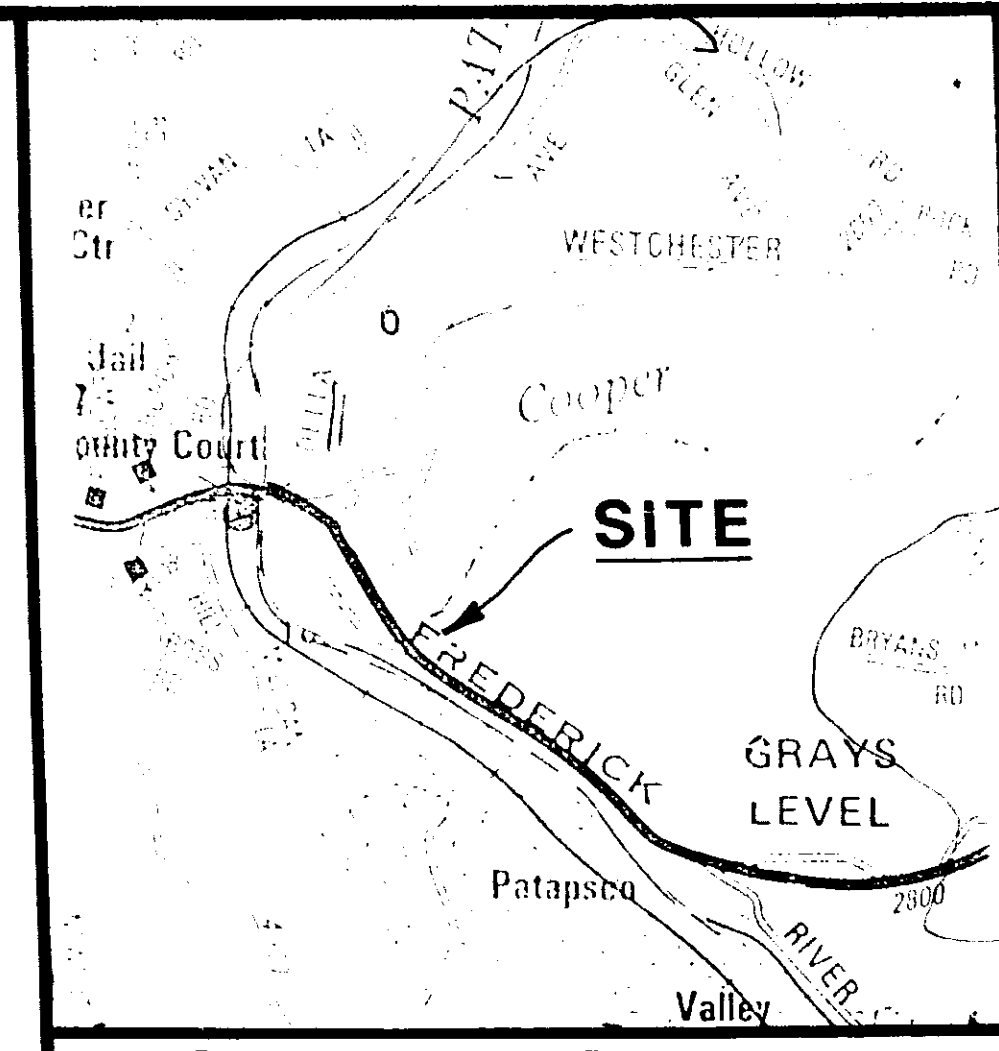


D.R.2 AREA 0.276 ACRES

B.R. AREA 0.453 ACRES

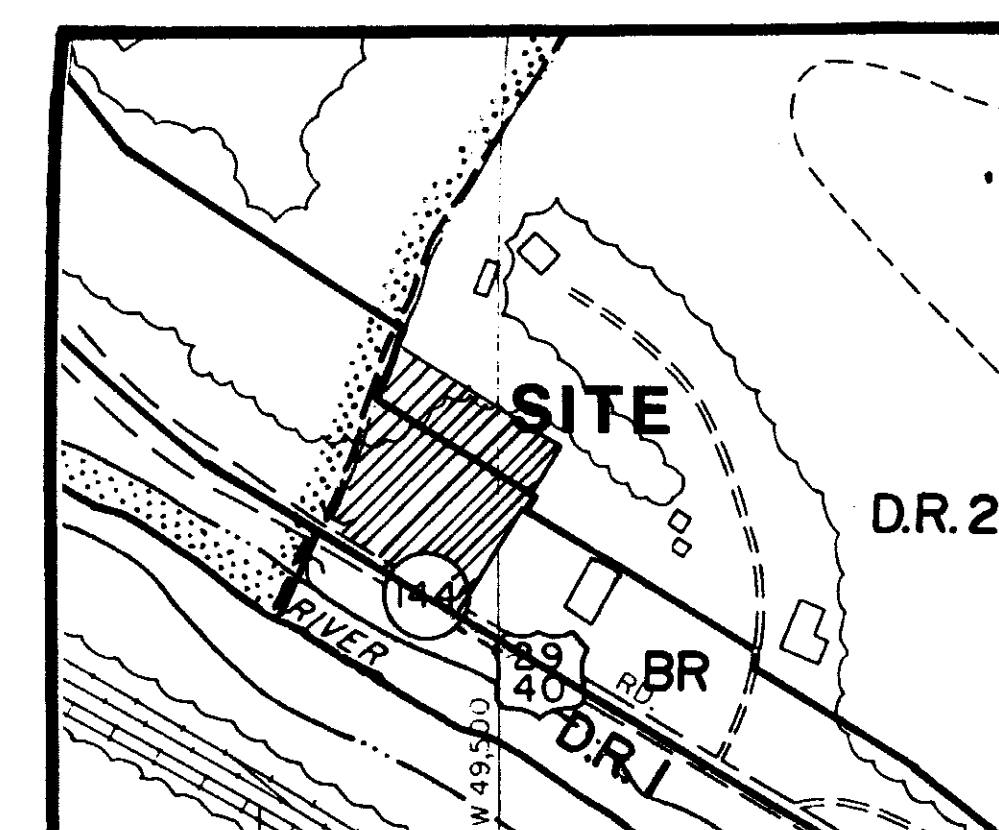
TOTAL AREA 0.729 ACRES

OWNER: ALTON H. HAMMERSLA ET AL.
DEED 6499/147
ACCT. # 0120660710



VICINITY MAP SCALE 1"=1000'

NOTE: AN ENVIRONMENTAL IMPACT STATEMENT AS DEFINED BY THE B.C.Z.R. HAS BEEN PREPARED BY ATEC AND IS SUBMITTED SEPARATELY THIS COMPLIES WITH THESE REQUIREMENT



ZONING MAP SCALE 1"=200'

STATE OF MARYLAND
STATE ROADS COMMISSION

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special exception for a food store as a use in combination with a service station, and a variance to permit a lot area of 19,793 sq. ft. in lieu of the required minimum of 22,100 sq. ft., as more particularly described in Petitioner's Exhibit 1.

The Petitioner, by John Murphy, Esquire, appeared and testified. Also appearing on behalf of the Petition was Joseph McGraw, Professional Land Surveyor. There were no Protestants.

Based upon the testimony and evidence presented at the hearing, all of which was uncontradicted, it is clear that a practical difficulty or unreasonable hardship would result if the relief requested in the special exception and the variance were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the special exception and variance requested will not be detrimental to the public health, safety, and general welfare.

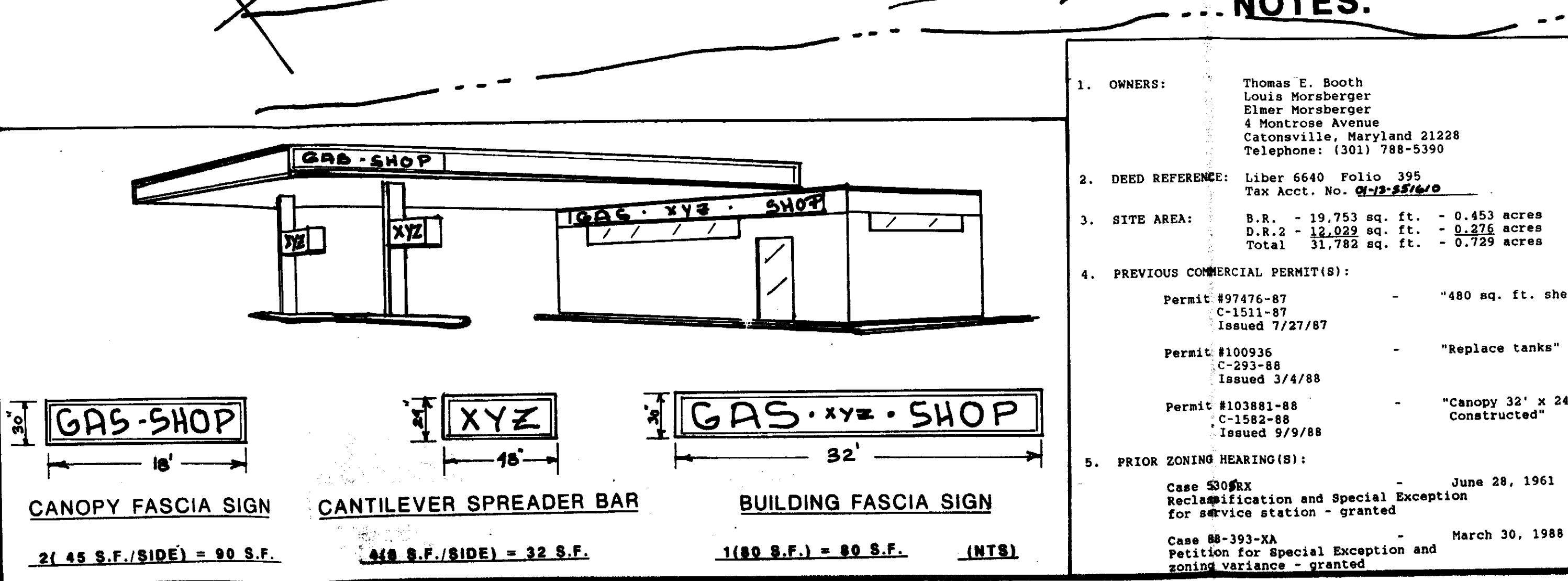
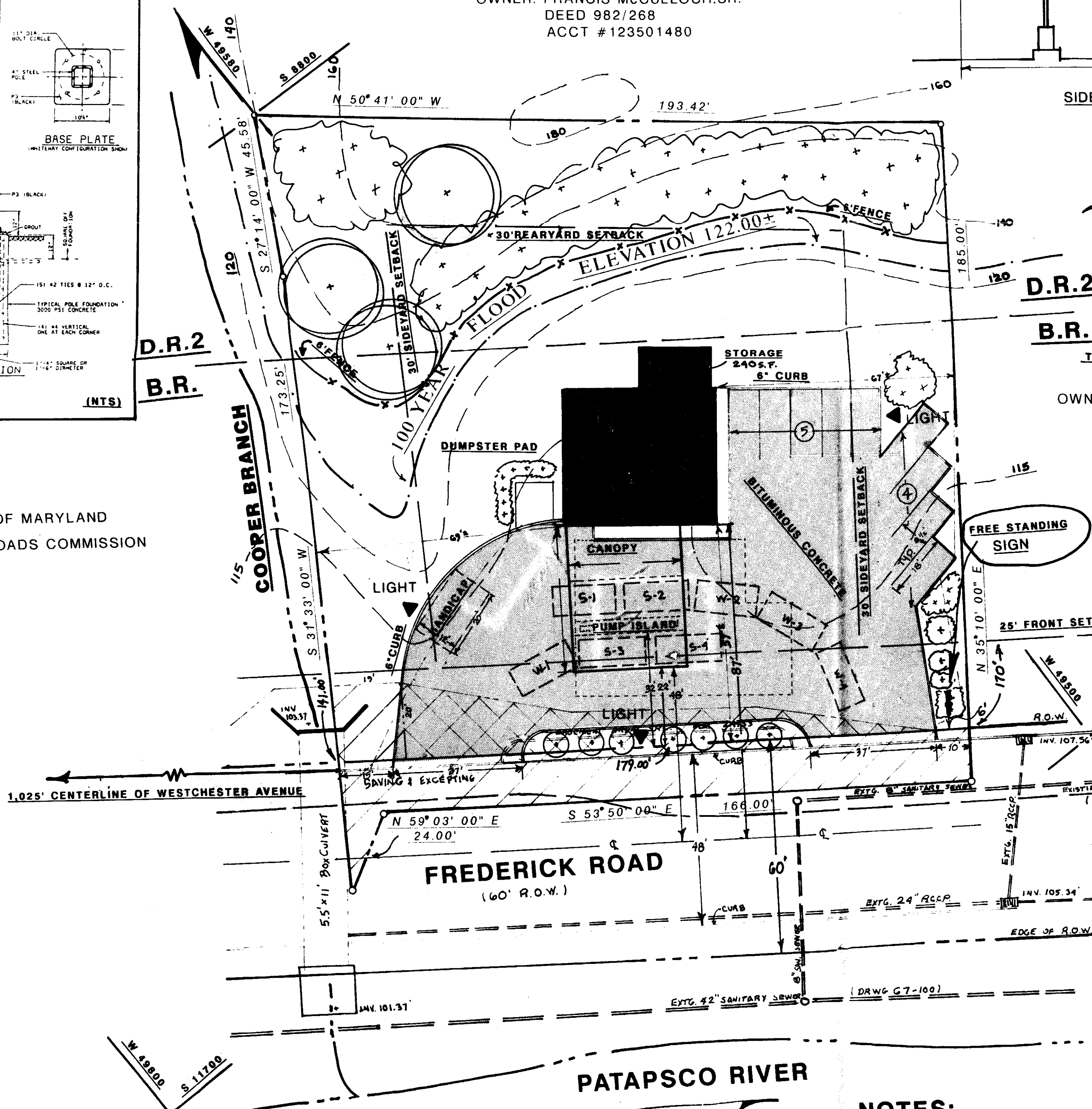
Pursuant to the advertisement, posting of the property, and public hearing on those petitions held, and for the reasons given above, the relief requested in the special exception and the variance should be granted.

WHEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 27th day of March, 1988 that a special exception for a food store as a use in combination with a service station, and a variance to permit a lot area of with Petitioner's Exhibit 1, be approved, and as such, the Petitions for Special Exception and Zoning Variance, are hereby GRANTED, subject, however, to the following restrictions:

- The Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the application process for this order has expired. If, for whatever reason, this order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- The food store shall not operate as a "carry-out" or drive-in restaurant, nor serve hot grilled food.
- No business parking shall be permitted on Frederick Road.

REQUESTED ANCILLARY USES

- Sale of cigarettes, candy, soft drinks and other items from vending machines. (Bill No. 40, 1967.)
- Tire sales and installation. (Bill No. 40, 1967.)
- Sales of small auto parts and accessories. (Bill No. 40, 1967.)
- Christmas-tree sales; temporary or occasional sales of cut flowers or live plants. (Bills No. 40, 1967; No. 179, 1981.)
- Minor accessory uses, such as restrooms, sale of motor oil, antifreeze, and allied products. (Such accessory uses need not be separately identified in a petition for a special exception unless required under another provision of these regulations or by the Zoning Commissioner.) (Bill No. 40, 1967.)



- A waiver of C&G process is being requested as of March 1991.
- PARKING CALCULATIONS:
Parking Required: 5 spaces/1,000 sq. ft. x 1,548 sq. ft. = 8 spaces
Parking Provided: 1 handicapped plus 9 spaces
- STACKING:
Required: 1 waiting space per 1 service space
Provided: 4 waiting spaces for 4 service spaces
- SITE DIMENSIONS - (B.C.Z. - SEC. 405.4)
Site Area: Service station plus food shop
Required: 15,000 sq. ft. for service station=15,000 sq. ft.
+ 4 x area or convenience store = 6,192 sq. ft.
4 x 1,548 sq. ft. = 6,192 sq. ft.
Provided: 19,793 sq. ft.
Note: Variance requested
- Site Width:
65 feet x 2 access points = 130 feet minimum
but not less than 90 feet
Int. Width at right-of-way line is 160 feet
Therefore two (2) access points are permitted and the lot width exceeds the minimum required width of 130 feet.
Access points from property lines minimum of 10 feet - shown at 10 feet on right - 15 feet on left
- SETBACKS:
Structure Minimum required 35' Proposed 57' Street R.O.W. 60' Centerline 88'
Canopy Minimum required 10' Proposed 22' 35' 48'
Pump Island Minimum required 15' Proposed 32' 40' 59'
Free Standing Sign Minimum required 6' Proposed 24' 31' 51'
- LIGHTING: All site lighting will be shielded to confine all direct light rays entirely within the site.
- SIGNS: (B.C.Z.R. 413)
Free Standing 100 s.f. Max. Permitted 144 s.f. Proposed 144 s.f.
Spread Bar 172 s.f. 170 s.f.
Fascia Mounted 172 s.f. 170 s.f.
Signs shown are generic, lettering may change-colors not indicated.
- Dumpster pad as shown.
- LANDSCAPING shall be in accordance with the Baltimore County Landscape Manual as indicated on Plan. Landscape Plan to be submitted for approval by Dept. of Planning
a. 180 linear feet of adjacent road +40 = 4.5 p.u.
b. 10 parking spaces +12 = 1.0 p.u.
c. 190 linear feet of adjacent residential +15 = 13.0 p.u.
d. 100 linear feet of dumpster +15 = 5.6 p.u.
Total = 25.1 p.u.
Summary
Major trees 12 1 = 12 p.u.
Evergreen 16 2 = 8 p.u.
Shrubs 58 5 = 26 p.u.
- SCREENING:
Variance for wall or fence as per Section 405.4b.3 a & b to permit location of fence in D.R. 2 Zone, as indicated on Plan.
- FLOOR AREA RATIO/COVERAGE: B.R. only
19,793 s.f. = 0.078 = 7.8%
- HOURS OF OPERATION: 24 hours a day 7 days a week
- Levels of vibration, dust noise, odors, gases and light and heat will be below minimum for the customary operation of a use of this type and in compliance with all local, state, and federal guidelines.

NOTES:

- OWNERS: Thomas E. Booth, Louis Moraberg, Elmer Moraberg, 4 Montrose Avenue, Catonsville, Maryland 21228, Telephone: (301) 788-5390
- DEED REFERENCE: Liber 6640 Folio 395, Tax Acct. No. 01-12-2511-0
- SITE AREA: B.R. - 19,793 sq. ft. = 0.453 acres
D.R.2 - 12,029 sq. ft. = 0.276 acres
Total 31,822 sq. ft. = 0.729 acres
- PREVIOUS COMMERCIAL PERMIT(S):
Permit #97476-87 - "480 sq. ft. shell"
C-1511-87 - Issued 7/27/87
Permit #100936 - "Replace tanks"
C-293-88 - Issued 3/4/88
Permit #103881-88 - "Canopy 32' x 24' constructed"
C-1582-88 - Issued 9/9/88
- PRIOR ZONING HEARING(S):
Case 3086x - June 28, 1961
Reclassification and Special Exception for service station - granted
Case 85-393-XA - March 30, 1988
Petition for Special Exception and zoning variance - granted

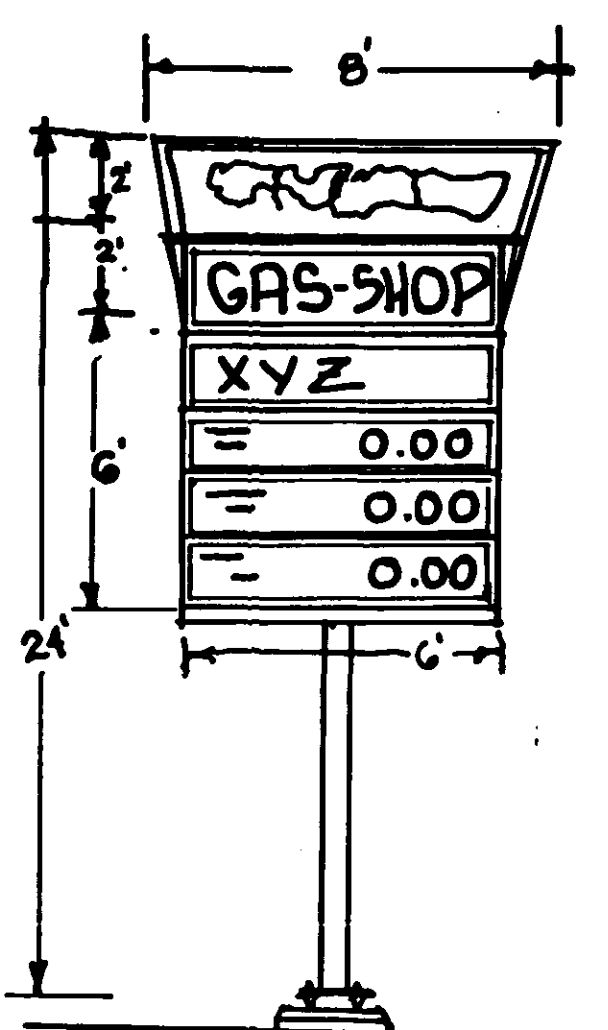
BOUNDARY AND TOPOGRAPHIC SURVEY PREPARED BY
JOSEPH W. MCGRAW, JR. PROFESSIONAL LAND SURVEYOR
DATED 10.14.87 AS REV. 11.23.87

- VARIANCES REQUESTED
- From 405.4D, to permit a lot area of 19,793 sq. feet (BR area) in lieu of required 22,152 sq. feet for the use in combination proposed;
 - From section 405.4A.3.B, to permit driveways 37 feet wide in lieu of the allowed 35 feet allowed;
 - From Sections 405.4.b.4 and 413.2F, for business signs totaling 272 sq. feet in lieu of the permitted 100 feet (all faces);
 - From Section 405.4b.5, to permit light standards 16 feet in height in lieu of the permitted 8 feet or greater but less than 16 feet;
 - From Section 405.4b.3.a and b, to permit location of the six (6) foot screen fence in the D.R.2 zone due to the difficult topography and flood plain in the B.R. zone.

PLAN TO ACCOMPANY REDISTRICTING VARIANCE(S), AND SPECIAL EXCEPTION PETITION
TOM BOOTH
64 FREDERICK ROAD
ELLCOTT CITY, BALTIMORE COUNTY, MD.

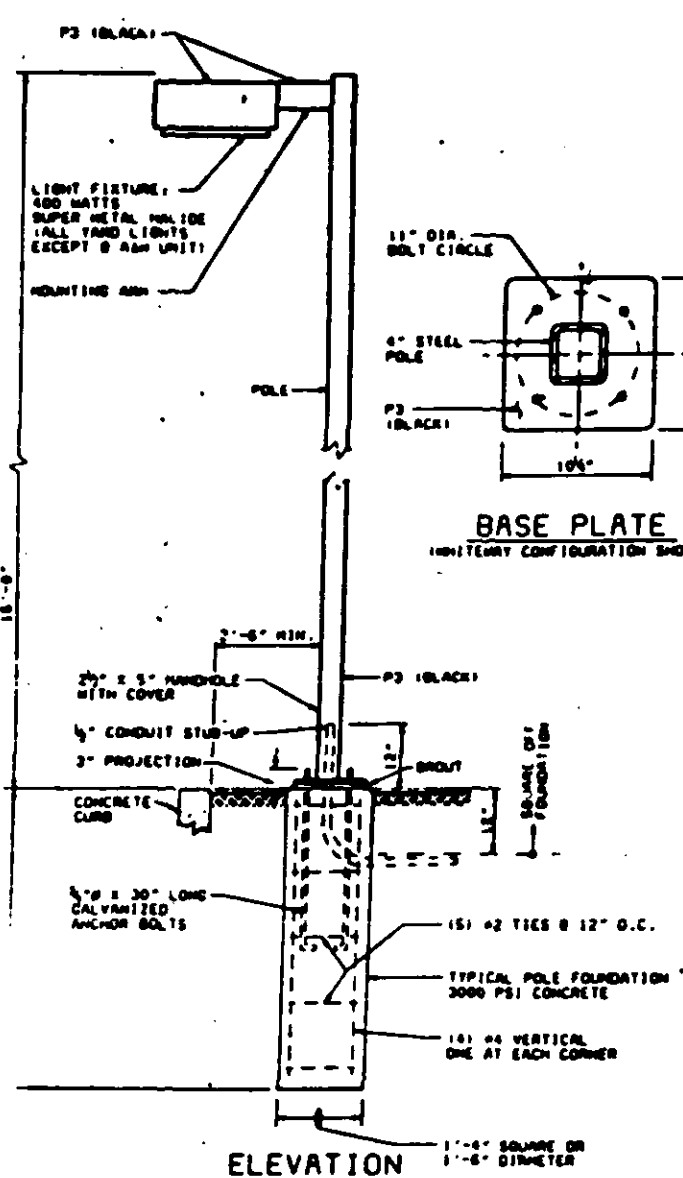
ELECTION DIST. 1ST COUNCILMANIC DIST. 1ST
DATE 2/28/91

PETITIONER'S EXHIBIT #1

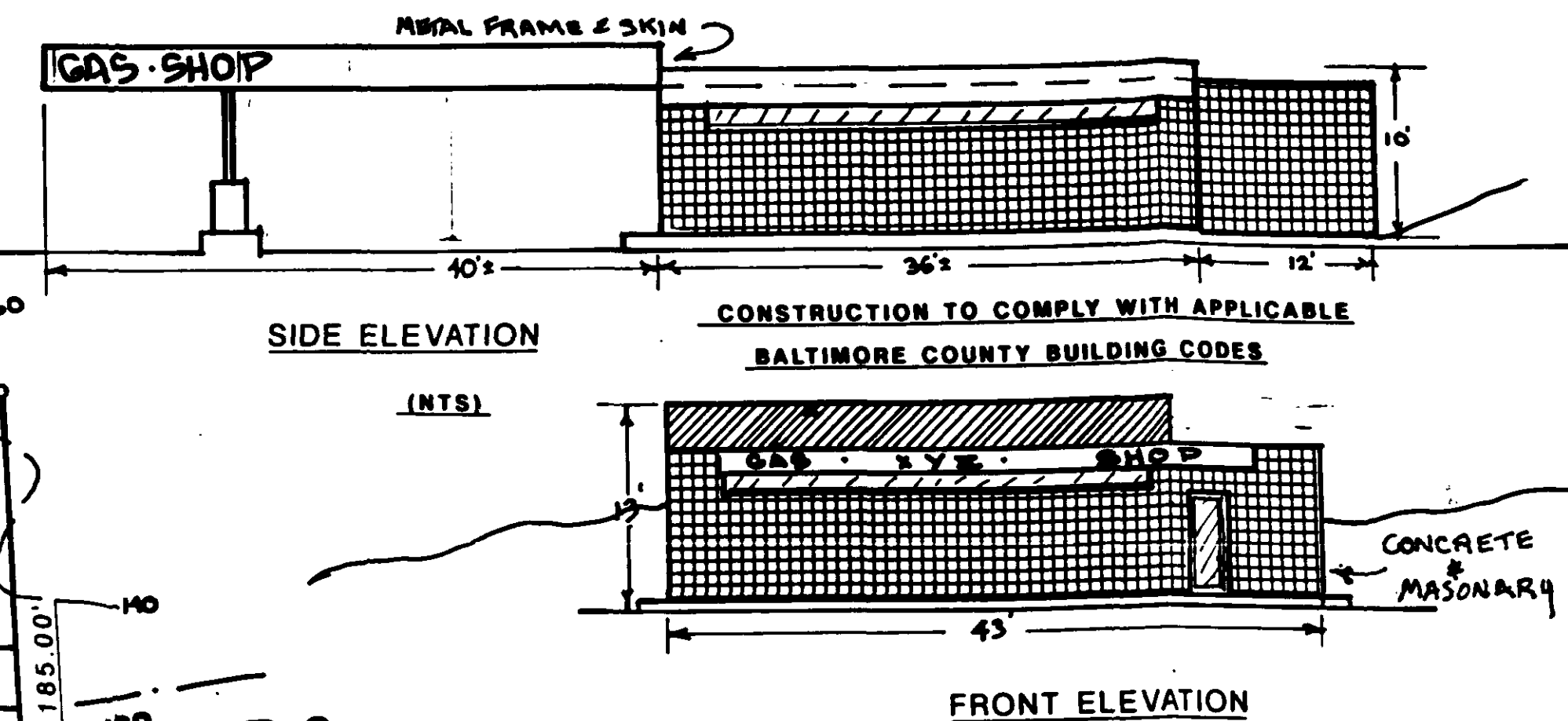
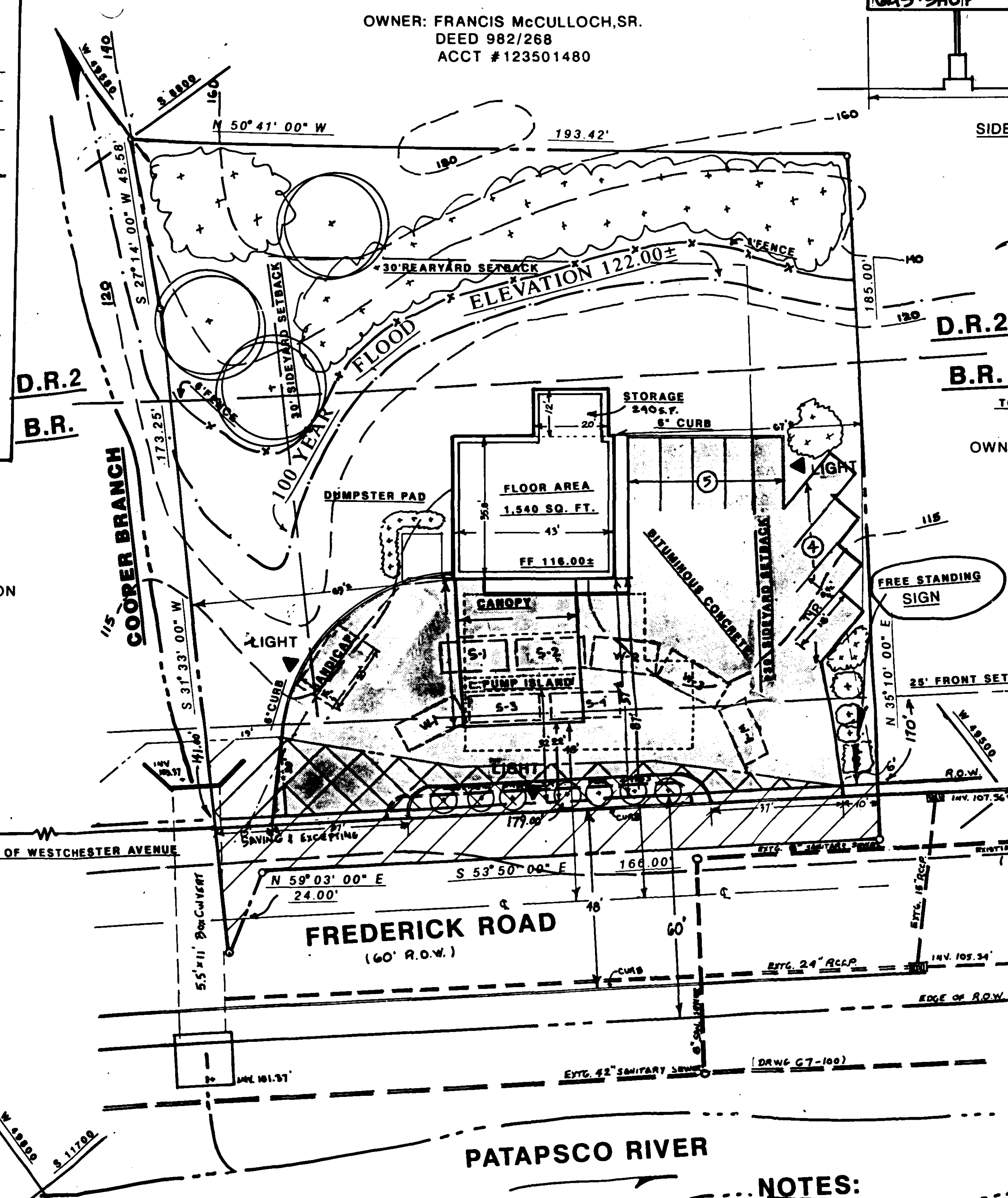


2(72 S.F./SIDE) = 144 S.F.

FREE STANDING SIGN (NTS)



LIGHTING (NTS)



D.R.2 AREA 0.276 ACRES

B.R. AREA 0.433 ACRES

TOTAL AREA 0.729 ACRES

OWNER: ALTON H. HAMMERSLA ET. AL.
DEED 6499/147
ACCT. # 0120660710

6. A waiver of CRO process is being requested as of March 1991.
7. PARKING CALCULATIONS:
Parking Required: 5 spaces/1,000 sq. ft. x 1,549 sq. ft. = 8 spaces
Parking Provided: 1 handicap plus 9 spaces
8. STACKING:
Required: 1 waiting space per 1 service space
Provided: 4 waiting spaces for 4 service spaces
9. SITE DIMENSIONS - (RCR - SEC. 405.4)
Site Area: Service station plus food shop
Required: 15,000 sq. ft. for service station-15,000 sq. ft.
4 x area of convenience store = 5,192 sq. ft.
4 x 1,548 sq. ft. = 6,192 sq. ft.
10. ACCESS POINTS:
B.R. Zone only 19,753 sq. ft.
Note: Variance requested
Site Width: 45 feet x 2 access points = 130 feet minimum
but not less than 90 feet
Lot width at right-of-way line is 160 feet
Therefore two (2) access points are permitted and the lot width exceeds the minimum required width of 130 feet.
- Access points from property lines
Minimum of 10 feet - shown at 10 feet on right - 15 feet on left

Structure	Street R.O.W.	Street Centerline
Minimum required	35'	60'
Proposed	35'	60'
Canopy	10'	35'
Minimum required	22'	40'
Proposed	15'	40'
Pump Island	32'	59'
Minimum required	6'	31'
Proposed	24'	51'

10. LIGHTING: All site lighting will be shielded to confine all direct light rays entirely within the site.

11. SIGNS: (B.C.Z.R. 413)

	Max. Permitted	Proposed
Free Standing	100 s.f.	144 s.f.
Spread Bar	172 s.f.	32 s.f.
Fascia Mounted	172 s.f.	170 s.f.

Signs shown are generic, lettering may change-colors not indicated.

12. Dumpster pad as shown.

13. LANDSCAPING shall be in accordance with the Baltimore County Landscape Manual as indicated on Plan. Landscaping Plan to be submitted for approval by Dept. of Planning.

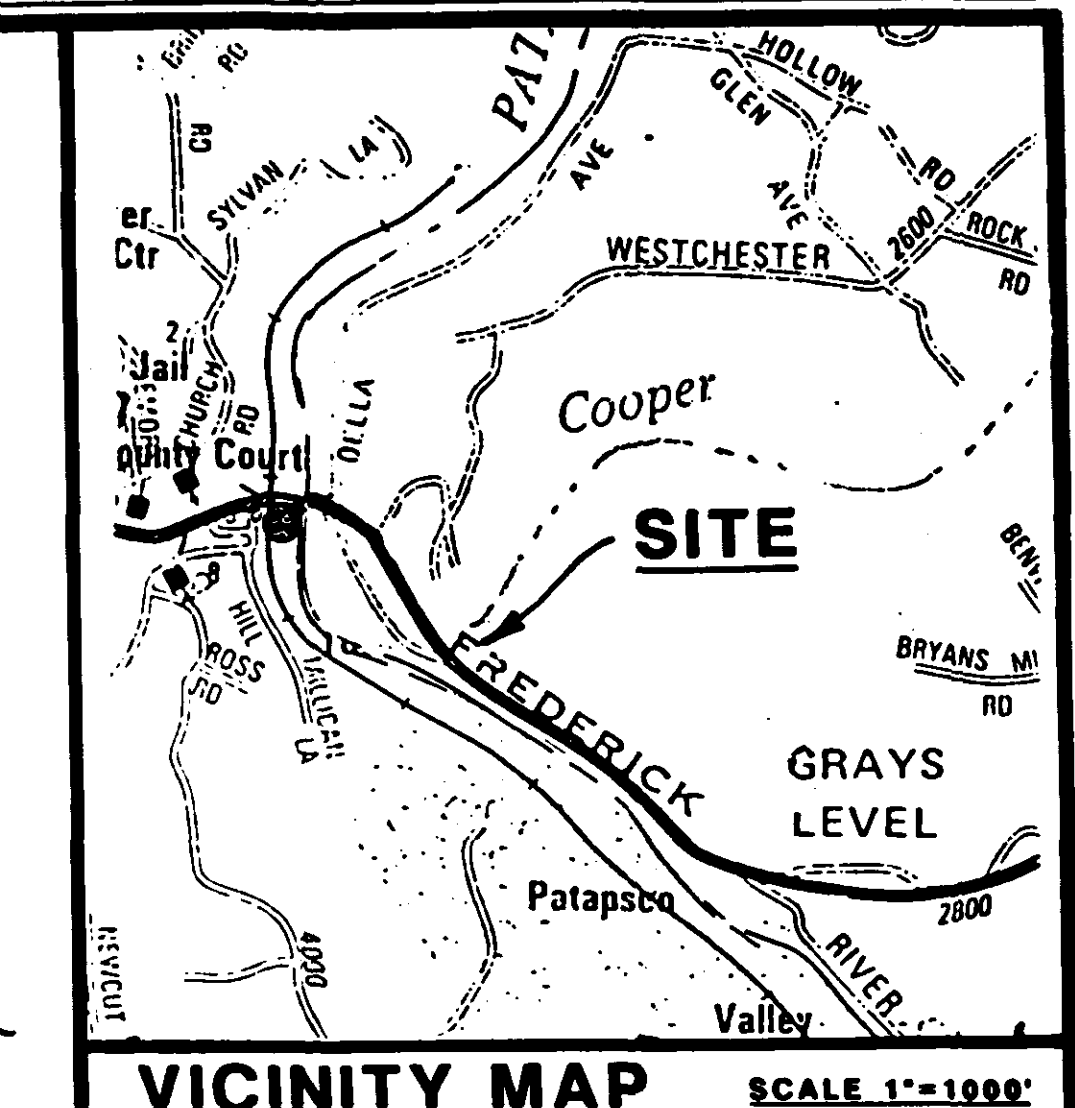
	a.	b.	c.	d.	Total
180 linear feet of adjacent road	4.5 p.u.				
10 parking spaces	1.0 p.u.				
190 linear feet of adjacent residential	13.0 p.u.				
100 linear feet of dumpster	5.5 p.u.				
Total	25.1 p.u.				

14. SCREENING:
Variance for wall or fence as per Section 405.4B.3.a & b to permit location of fence in D.R. 2 Zone, as indicated on Plan.

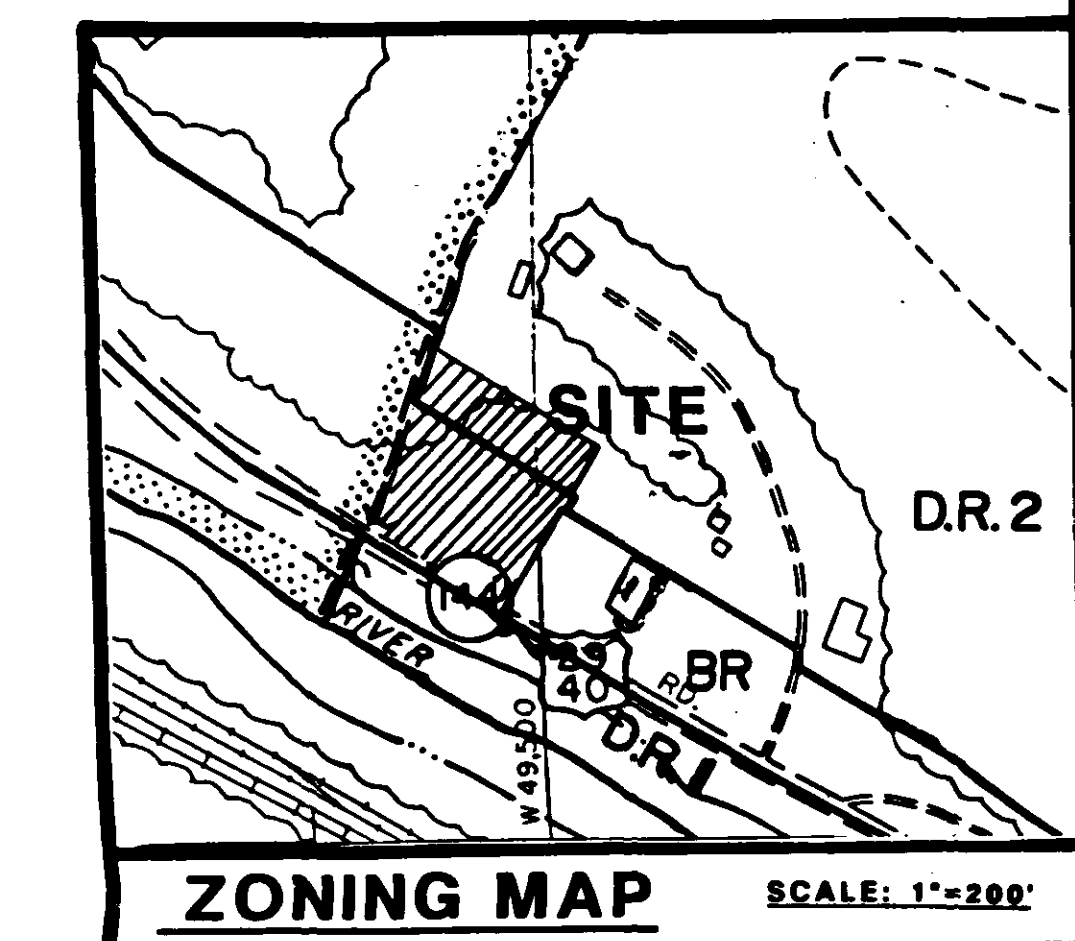
15. FLOOR AREA RATIO/COVERAGE: B.R. only - 19,753 s.f. = 0.078 - 7.85

16. HOURS OF OPERATION: 24 hours a day 7 days a week

17. Levels of vibration, dust noise, odors, gases and light and heat will be below minimum for the customary operation of a use of this type and in compliance with all local, state, and federal guidelines.



NOTE: AN ENVIRONMENTAL IMPACT STATEMENT AS DEFINED BY THE B.C.Z.R. HAS BEEN PREPARED BY ATEC AND IS SUBMITTED SEPARATELY THIS COMPLIES WITH THESE REQUIREMENT



BASED ON BOUNDARY AND TOPOGRAPHIC SURVEY PREPARED BY JOSEPH W. MCGRAW, JR. PROFESSIONAL LAND SURVEYOR DATED 10/14/87 AS REV. 11/23/87

- APPROVALS
- VARIANCE REQUESTER
- From 405.4D, to permit a lot area of 19,373 sq. feet (BR area) in lieu of required 22,152 sq. feet for the use in combination proposed;
 - From section 405.4A.3.B. to permit driveways 37 feet wide in lieu of the allowed 35 feet allowed;
 - From Sections 405.4B.4 and 413.2F. for business signs totalling 228 sq. feet in lieu of the permitted 100 feet (all faces);
 - From Section 405.4B.5. to permit light standards 16 feet in height in lieu of the permitted 8 feet or greater but less than 16 feet;
 - From Section 405.4B.3.9. and b. to permit location of the six (6) foot screen fence in the D.R.L. zone due to the difficult topography and flood plain in the B.R. zone.

CR-91-359-XA
#1

Pc Ltd.
Patton Consultants, Ltd.
305 W. CHESAPEAKE AVE., STE. 305
TOWSON, MARYLAND 21204
(301) 296-2140 Fax (301) 296-0419

SITE PLANNERS • ENGINEERS
LAND DEVELOPMENT CONSULTANTS

PLAN TO ACCOMPANY REDISTRICTING VARIANCE(S), AND SPECIAL EXCEPTION PETITION

TOM BOOTH

64 FREDERICK ROAD

ELLCOTT CITY, BALTIMORE COUNTY, MD.

ELECTION DIST. 1ST COUNCILMANIC DIST. 1ST

DRAWN CHECKED DATE 2/28/91

SCALE 1"=20'

PROJ. NO. 7108

NORTH

SHEET NO. 11

IN RE: PETITION FOR SPECIAL EXCEPTION AND ZONING VARIANCE - RECORDED Frederick Rd. & Coopers Branch 1st Election District 1st Councilmanic District Wayne William Martin Petitioner

BEFORE THE STATE OF MARYLAND ZONING COMMISSION OF BALTIMORE COUNTY STATE ROADS COMMISSION Case No. 88-393-XA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special exception for a food store as a use in combination with a service station, and a variance to permit a lot area of 19,373 sq. ft. in lieu of the required minimum of 22,100 sq. ft., as more particularly described in Petitioner's Exhibit 1.

The Petitioner, by John Murphy, Esquire, appeared and testified. Also appearing on behalf of the Petition was Joseph McGraw, Professional Land Surveyor. There were no Protestants.

Based upon the testimony and evidence presented at the hearing, all of which was uncontradicted, it is clear that a practical difficulty or unreasonable hardship would result if the relief requested in the special exception and the variance were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the special exception and variance requested will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on these petitions held, and for the reasons given above, the relief requested in the special exception and the variance should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 30th day of March, 1988 that a special exception for a food store as a use in combination with a service station, and a variance to permit a lot area of with Petitioner's Exhibit 1, be approved, and as such, the Petitions for Special Exception and Zoning Variance, are hereby GRANTED, subject, however, to the following restrictions:

1) The Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2) The food store shall not operate as a carry-out or drive-in restaurant, nor serve hot grilled food.

3) No business parking shall be permitted on Frederick Road.

4) The Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

5) The food store shall not operate as a carry-out or drive-in restaurant, nor serve hot grilled food.

6) No business parking shall be permitted on Frederick Road.

7) The Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

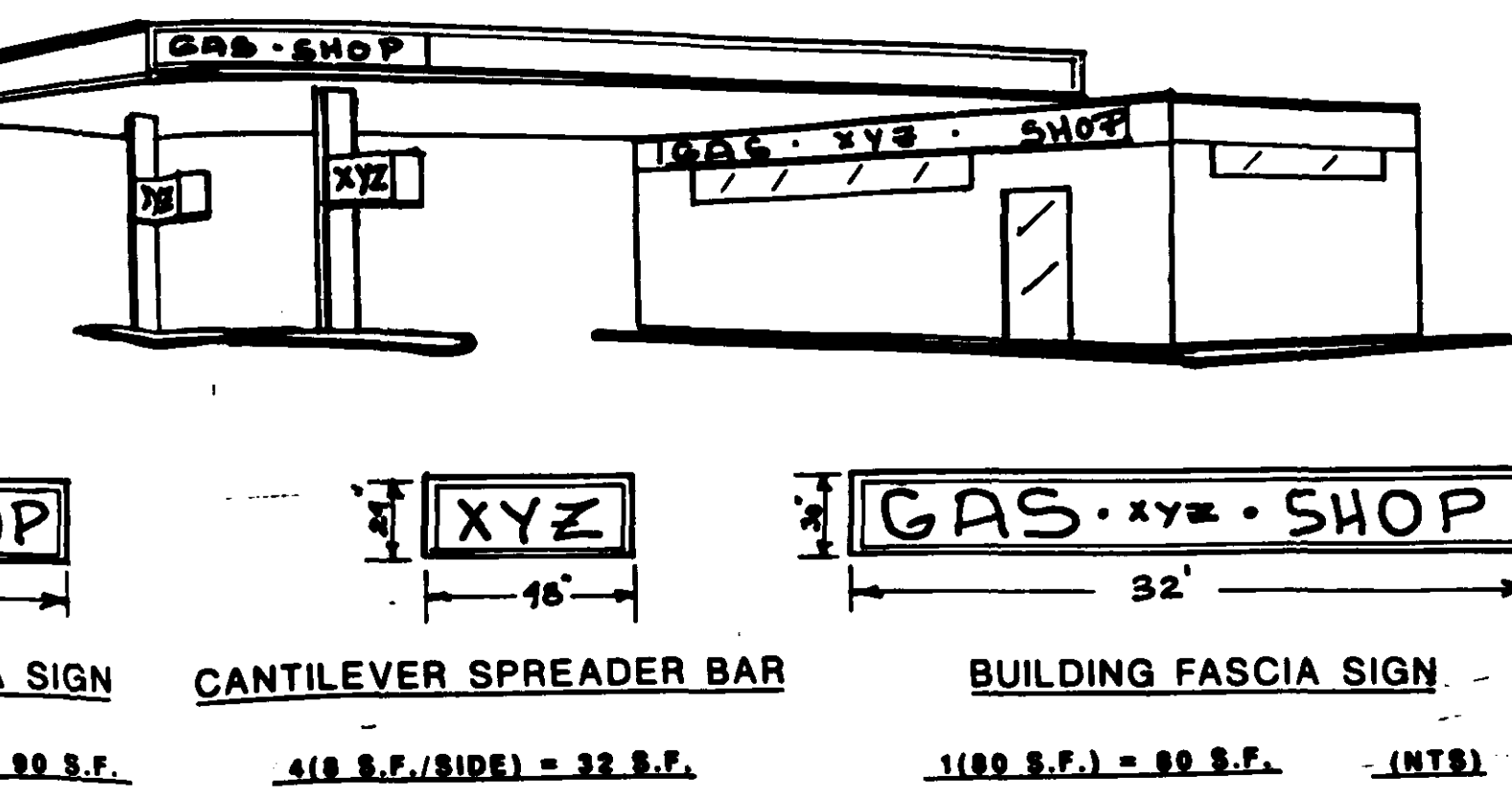
8) The food store shall not operate as a carry-out or drive-in restaurant, nor serve hot grilled food.

9) No business parking shall be permitted on Frederick Road.

10) The Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

11) The food store shall not operate as a carry-out or drive-in restaurant, nor serve hot grilled food.

12) No business parking shall be permitted on Frederick Road.



CANOPY FASCIA SIGN

CANTILEVER SPREADER BAR

BUILDING FASCIA SIGN

2(48 S.F./SIDE) = 96 S.F.

4(8 S.F./SIDE) = 32 S.F.

1(80 S.F.) = 80 S.F. (NTS)

CERTIFICATE OF COMPLIANCE

I hereby certify that on November 27, 1991, a copy of the Order for Appeal was served, by hand delivery, on the County Board of Appeals for Baltimore County.

Newton A. Williams
NEWTON A. WILLIAMS

Nolan, Plumbhoff & Williams
NOLAN, PLUMHOFF & WILLIAMS, CHTD.
700 Court Towers
210 W. Pennsylvania Avenue
Towson, Maryland 21204
(301) 823-7800

9117B(7)

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

3

IN THE MATTER OF * IN THE
THE APPLICATION OF *
THOMAS E. BOOTH, et al. * CIRCUIT COURT FOR
FOR A ZONING *
RECLASSIFICATION, ETC. FOR * BALTIMORE COUNTY
64 FREDERICK ROAD *
Case No.: 91-CV-6907
8/339

DISMISSAL OF APPEAL WITHOUT PREJUDICE
ON BEHALF OF APPELLANTS THOMAS E. BOOTH, et al.
THOMAS E. BOOTH, LOUIS MORSBERGER and ELMER MORSBERGER,
Petitioners, before the Board of Appeals and appellants,
herein, by Newton A. Williams, Esquire, Nolan, Plumbhoff and
Williams, Chartered, their attorneys, hereby dismiss the appeal
filed herein from the County Board of Appeals decision and
order entered herein, "Without Prejudice," to any and all
rights that they might enjoy herein.

Respectfully submitted,
Newton A. Williams
Newton A. Williams
Nolan, Plumbhoff & Williams, Chtd.
700 Court Towers
210 W. Pennsylvania Avenue
Towson, Maryland 21204
(410) 823-7800

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of February, 1992, a copy of the foregoing Dismissal of Appeal Without Prejudice on Behalf of Thomas E. Booth, et al. was mailed postage prepaid to:

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

2

County Board of Appeals
County Office Building
Room 315
111 W. Chesapeake Avenue
Towson, Maryland 21204
Baltimore County Zoning Commissioner
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Phyllis Cole Friedman, Esquire
Counsel for Baltimore County
Room 304
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Wayne Martin
5117 South Street
Relay, Maryland 21227

Newton A. Williams
NEWTON A. WILLIAMS

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

9784B/dlp

-2-

IN THE MATTER OF * BEFORE THE
THE APPLICATION OF *
THOMAS E. BOOTH, LOUIS MORSBERGER * COUNTY BOARD OF APPEALS
AND ELMER MORSBERGER FOR A ZONING *
RECLASSIFICATION FROM B.R. * OF
(UNDISTRICTED) TO B.R.-C.N.S., * BALTIMORE COUNTY
SPECIAL EXCEPTION AND VARIANCES *
ON PROPERTY LOCATED ON THE NORTH * CASE NO. CR-91-359-XA
SIDE OF FREDERICK ROAD, 1025' * Item #1, Cycle V
SOUTHEAST OF CENTERLINE OF WEST- * 1991
CHESTER AVENUE (64 FREDERICK ROAD) *
1ST ELECTION DISTRICT *
1ST COUNCILMANIC DISTRICT *

RULING ON MOTION TO RECONSIDER OR TO VACATE

The Board has received the Motion to Reconsider or to Vacate filed herein by Newton A. Williams, Esquire, Counsel for the Petitioner in the above-entitled matter.

Upon this Board's review and consideration of the foregoing Motion,

IT IS HEREBY ORDERED by the County Board of Appeals of Baltimore County that said Motion to Reconsider or to Vacate be and the same is hereby DENIED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Michael B. Bauer
Michael B. Bauer, Acting Chairman
John G. Disney
John G. Disney
Judson H. Lipowitz
Judson H. Lipowitz

DATE: December 18, 1991

IN THE MATTER OF * BEFORE THE
THE APPLICATION OF *
THOMAS E. BOOTH, et al. * COUNTY BOARD OF APPEALS
FOR A ZONING *
RECLASSIFICATION, ETC., FOR * OF
64 FREDERICK ROAD * BALTIMORE COUNTY
Case No. CR -91-359-XA
Item #1, Cycle V
1991

MOTION TO RECONSIDER OR TO VACATE

The Petitioners, THOMAS E. BOOTH, LOUIS MORSEBERGER AND ELMER MORSEBERGER, by Newton A. Williams and Nolan, Plumbhoff & Williams, Chartered, their attorneys respectfully ask that the County Board of Appeals of Baltimore County reconsider their Opinion and Order entered in this case under date of October 28, 1991, or in the alternative vacate the aforesaid Opinion and Order until the items enumerated in this Motion can be disposed of.

The grounds of this Motion to Reconsider and/or to Vacate are as follows:

1. The Petitioners had been assured in writing of non-opposition by the office of the People's Counsel, and thus were surprised by the opposition that materialized, notwithstanding the favorable recommendation of the Office of Planning and Zoning which is a matter of record in the Board's file.

2. That the Office of Planning and Zoning by its favorable recommendation for the CNS District recognized

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

504-11-10-1116

the error, the oversight, in not theretofore placing a CNS district on the property as was done on other smaller, isolated properties in Oella. Apart from Mr. Wayne Martin, a disappointed former owner, no neighbors complained at the hearing since the restoration of this property as a working gas station would benefit the area, coupled with a convenient, accessible convenience store, another benefit. Undoubtedly these factors influenced the Office of Planning and Zoning to make a favorable recommendation, an acknowledgement of error.

2. That the usual order of development is to first obtain the special exception and then to obtain the required waivers and DEPRM permits. In fact, DEPRM will not grant any waivers or variances prior to the granting of the special exception. The Petitioners' engineers were informed by Current Planning that the site plan would not be reviewed by other Departments, including DEPRM, until the redistricting, special exception and variance case is heard by the Board. It is entirely possible to be granted the redistricting, special exception and variances, and not be able to build the project due to lack of other required permits, variances or approvals by DEPRM or others. DEPRM and other departments must have an actual site plan to review. Thus, the Petitioners are in a somewhat Catch - 22 situation as between the Board, DEPRM and other departments.

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

3. That the Petitioners were surprised by the nature of the environmental testimony which materialized at the Hearing, believing that the Petitioner's had the right following the Hearing to seek such necessary variances as might be required from the Baltimore County Department of Environmental Protection and Resource Management, as well as possibly the Maryland State Department of Natural Resources. Accordingly, the Petitioner's would respectfully ask the Board to consider, reconsidering its denial of the requested redistricting, Special Exception and Variances, or in the alternative the Petitioners would respectfully ask the Board to vacate its findings for a period of six months or until such time as the parties would again apply to the Board in order to give the Petitioner's the opportunity to seek the variances from DEPRM and possibly from the Department of Natural Resources, or, at least, comments from these agencies.

Accordingly, the Petitioner's would respectfully ask that the Board either reconsider its Opinion and Order of October 28, 1991 in the above entitled matter, and grant the requested redistricting, Special Exception and variances subject to the obtaining of any and all required DEPRM and or Department of Natural Resources variances, or in the alternative the Petitioner's would respectfully ask that the Board consider vacating the Opinion and Order of October 28, 1991, and allow the Petitioner's an ample opportunity, as for instance six (6)

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

3

months, to obtain all required variances from DEPRM and or the Department of Natural Resources, and then come back to the Board with such variances in hand, or alternatively with such variances denied, or at least, more probative comments from these agencies.

Respectfully submitted,

Newton A. Williams
Newton A. Williams
Nolan, Plumbhoff & Williams, Chtd.
700 Court Towers
210 W. Pennsylvania Avenue
Towson, Maryland 21204
(301) 823-7800

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of November, 1991, a copy of the foregoing Motion to Reconsider or Vacate was mailed postage prepaid to The People's Counsel, Room 304, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland 21204 and Wayne Martin, 5117 South Street, Relay, Maryland 21227.

Newton A. Williams
NEWTON A. WILLIAMS

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED

9117B NAW/psk

4

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland
District: 1
Date of Posting: 7-3-91
Posted for: 30 days
Petitioner: Thomas E. Booth
Location of property: 64 Frederick Road, Towson, Maryland 21204
Location of Sign: 64 Frederick Road, Towson, Maryland 21204
Remarks: 3-3-91
Posted by: [Signature]
Number of Signs: 2

NOTICE OF HEARING
Petition for Zoning
Redistricting, Special Exception
& Variance
Case Number: CR-91-359-XA
165 Frederick Road, 1025
SE of C1 Westchester Avenue
1st Election District
1st Councilmanic
Petitioners: Thomas E. Booth,
Louis Morsberger,
Elmer Morsberger
Property Description
Beginning at a point on the
North side of Frederick Road
which is 1,025 feet more or
less Southeast to the center line
of the nearest improved intersec-
tion street, Westchester Avenue,
which is 175 (50) feet wide,
thence the following courses and
distances:
South 53° 50' 00" East 179.00 feet
North 35° 10' 00" East 170.00 feet
North 50° 41' 00" West 193.42 feet
South 27° 14' 00" West 45.58 feet
South 31° 33' 00" West 141.00 feet
to the place of beginning as re-
corded in Deed Liber 6640, Folio
395.
Saving and excepting that por-
tion of the above which is zoned
D.R. as to the Redistricting and
Special Exception Petition(s).
RECLASSIFICATION Petition to
reclassify (retract) the prop-
erty from B.R. to B.R.-CNS
zoning.
SPECIAL EXCEPTION For
service station with food store
use in combination under 5,000
sq. ft.
VARIANCE To permit a lot
area of 19,373 sq. ft. (B.R. area)
in lieu of required 22,152 sq. ft. for
the use in combination proposed;
to permit driveways 37 feet wide
in lieu of the allowed 35 feet;
to permit signs totaling 176 sq. ft.
in lieu of the allowed 100 sq. ft.
(all faces); to permit light stand-
ards 16 feet in height in lieu of
the permitted 8 feet or greater but
less than 16 feet; and to permit loca-
tion of the 6 ft. screen fence in the
D.R.-2 zone due to the difficult
topography and flood plain in the
B.R. zone.
HEARING: WEDNESDAY,
SEPTEMBER 25, 1991
AT 10:00 A.M.
LOCATION:
County Office Building, Rm. 301,
111 W. Chesapeake Avenue,
Towson, Maryland 21204.
WILLIAM T. HACKETT,
Chairman
County Board of Appeals
CJ-9206 August 29

CERTIFICATE OF PUBLICATION

TOWSON, MD. 7-2-91
THIS IS TO CERTIFY, that the annexed advertisement was
published in THE JEFFERSONIAN, a weekly newspaper published
in Towson, Baltimore County, Md., once in each of 1 successive
weeks, the first publication appearing on 7-29-91
THE JEFFERSONIAN.
S. Zake Orlan
Publisher
296 - \$119.34

NOTICE OF HEARING
Petition for Zoning
Redistricting, Special Exception
& Variance
Case Number: CR-91-359-XA
165 Frederick Road, 1025
SE of C1 Westchester Avenue
1st Election District
1st Councilmanic
Petitioners: Thomas E. Booth,
Louis Morsberger,
Elmer Morsberger
Property Description
Beginning at a point on the
North side of Frederick Road
which is 1,025 feet more or
less Southeast to the center line
of the nearest improved intersec-
tion street, Westchester Avenue,
which is 175 (50) feet wide,
thence the following courses and
distances:
South 53° 50' 00" East 179.00 feet
North 35° 10' 00" East 170.00 feet
North 50° 41' 00" West 193.42 feet
South 27° 14' 00" West 45.58 feet
South 31° 33' 00" West 141.00 feet
to the place of beginning as re-
corded in Deed Liber 6640, Folio
395.
Saving and excepting that por-
tion of the above which is zoned
D.R. as to the Redistricting and
Special Exception Petition(s).
RECLASSIFICATION Petition to
reclassify (retract) the prop-
erty from B.R. to B.R.-CNS
zoning.
SPECIAL EXCEPTION For
service station with food store
use in combination under 5,000
sq. ft.
VARIANCE To permit a lot
area of 19,373 sq. ft. (B.R. area)
in lieu of required 22,152 sq. ft. for
the use in combination proposed;
to permit driveways 37 feet wide
in lieu of the allowed 35 feet;
to permit signs totaling 176 sq. ft.
in lieu of the allowed 100 sq. ft.
(all faces); to permit light stand-
ards 16 feet in height in lieu of
the permitted 8 feet or greater but
less than 16 feet; and to permit loca-
tion of the 6 ft. screen fence in the
D.R.-2 zone due to the difficult
topography and flood plain in the
B.R. zone.
HEARING: WEDNESDAY,
SEPTEMBER 25, 1991
AT 10:00 A.M.
LOCATION:
County Office Building, Rm. 301,
111 W. Chesapeake Avenue,
Towson, Maryland 21204.
WILLIAM T. HACKETT,
Chairman
County Board of Appeals
CJ-9206 August 29

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was pub-
lished in the CATONSVILLE TIMES, a weekly newspaper published in
Baltimore County, Md., once in each of 1 successive weeks, the first
publication appearing on 7-29-91
CATONSVILLE TIMES
S. Zake Orlan
Publisher
296 - \$119.34

PETITION FOR ZONING RECLASSIFICATION, REDISTRICTING,
SPECIAL EXCEPTION AND/OR VARIANCE

TO THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY:
The undersigned, legal owner(s) of the property situate in Baltimore County and which is
described in the description and plat attached hereto and made a part hereof, hereby petition (1)
that the zoning status of the herein described property be reclassified, pursuant to the Zoning Law
of Baltimore County, from all B.R.-undistricted zone to an B.R.-CNS(Commercial-Neighborhood)
zone, for the reasons given in the attached statement; and (2) for a Special Exception, under the
said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property,
for service station and food store (under 5,000 square feet)

- and (3) for the reasons given in the attached statement, a variance from the following sections of
the Zoning Law and Zoning Regulations of Baltimore County:
1. From Section 405.4D, to permit a lot area of 19,373 sq. feet (B.R. area) in lieu
of required 22,152 sq. feet for the use in combination proposed;
 2. From Section 405.4A.3.b, to permit driveways 37 feet wide in lieu of the allowed
35 feet;
 3. From Sections 405.4.B.4 and 413.2f, for business signs totaling 176 sq. ft. in lieu
of the permitted 100 sq. ft. (all faces);
 4. From Section 405.4.B.5, to permit light standards 16 feet in height in lieu
of the permitted 8 feet or greater but less than 16 feet.
 5. From Section 405.48.3.a, and b, to permit location of the six(6) foot screen
fence in the D.R.2 Zone due to the difficult topography and flood plain in the
B.R. Zone.

Property is to be posted and advertised as prescribed by The Baltimore County Code.
I, or we, agree to pay expenses of above Re-classification, Special Exception and/or Variance,
posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning
regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore
County.
Contract Purchaser: Legal Owner(s):
(Type or Print Name) Thomas E. Booth
Signature Thomas E. Booth
Address Louis Morsberger, Elmer Morsberger
City and State Catonsville, Maryland
Attorney for Petitioner: Newton A. Williams, Esquire
Address 4 Montross Avenue, Towson, Maryland 21204
City and State Catonsville, Maryland 21228
Name, address and phone number of legal owner, con-
tract purchaser or representative to be contacted
Newton A. Williams
700 Court Towers
210 W. Pennsylvania Avenue, Towson, Maryland 21204
City and State Towson, Maryland 21204
Attorney's Telephone No.: 823-7800

BALCO-P-101 9-10-90 1-1-10116

Reasons in Support of Petition For Zoning
Reclassification, Redistricting, Special Exception
and/or Variance(s)

The Petitioners, Thomas Booth, Louis Morsberger, and Elmer
Morsberger, by Newton A. Williams and Nolan, Plunhoff &
Williams, Chartered, their attorneys, are requesting the
restoration/confirmation of the special exception for service
station and a use in combination food store (under 5,000 sq.
ft.), as well as variances for the required joint area required
for the use in combination food store, as well as possible
other minor variances for the following reasons:

1. The site has been a gas station, selling food and
incidentals since the 1940's at least, and it was granted a
special exception for service station in Case No. 530RX on
June 28, 1961. Further, it was granted a special exception for
use in combination food store and area variance in Case No.
88-393-XA on March 30, 1988. It is our belief that at least
the underlying, utilized special exception for service station
in Case No. 530RX is still in existence, since the site was
never abandoned, and was and is under renovation.
2. That the previous owner in seeking to upgrade the
station ran into problems, but never abandoned or closed the
station for good.
3. That the Petitioners are experienced, reputable
Western County area business people, and have the ability, if
permitted, to restore this station to life, upgraded and
available to serve the public as it always has.

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
Account: R-001-6150
Number
Date 7/31/91
Petitioners Petition
Owner: Thomas E. Booth
64 Fred. Rd.
To District, SE-1 VRC
450.00
4
450.00
CASHIER VALIDATION

4. The public need for the station and use in combination
is demonstrated by the fact that it has always been a service
station, often selling food and incidentals, and it is the only
service station or convenience store between Ingleside Avenue
in Catonsville and Western Ellicott City on Frederick Road.
5. That an interpretation of the Zoning Regulations may
require a CNS District for the special exception, which the
site and area should always have had in any case, and it was
and is an error not to so district it.
6. That the site was long used as an H.L. Mills Station,
a use in combination service station and food store, and
functioned well, and hence the special exception and variance
previously granted should be restored under these new, better
owners.
7. That the site and area is zoned BR, our heaviest
commercial zone, with the steep rear in D.R.2., and the area
variance is needed in part because of the split zone.
8. That the site under previous inferior owners has twice
been found in 1961 and 1988 to meet the requirements of Section
502.1 of the Regulations, and will be further upgraded in this
case assuring meeting the requirements of Section 502.1.
9. That without the requested variances the Petitioners
will sustain practical difficulty and unreasonable hardship,
and the variances and special exception(s) will foster the
health, safety and welfare of the area involved.
10. For such other and further reasons as may be disclosed
as the matter unfolds.

ZONING DESCRIPTION
FOR
REDISTRICTING, VARIANCE(S)
AND
SPECIAL EXCEPTION PETITION
64 FREDERICK ROAD

Beginning at a point on the North side of Frederick Road which is
sixty (60) feet wide at the distance of 1,025 feet more or less
Southeast to the center line of the nearest improved intersecting
street, Westchester Avenue, which is fifty (50) feet wide, thence
the following courses and distances:
South 53° 50' 00" East 179.00 feet
North 35° 10' 00" East 170.00 feet
North 50° 41' 00" West 193.42 feet
South 27° 14' 00" West 45.58 feet
South 31° 33' 00" West 141.00 feet

to the place of beginning as recorded in Deed Liber 6640, Folio
395.
Saving and excepting that portion of the above which is zoned D.R.
2 as to the Redistricting and Special exception Petition(s).



Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
Account: R-001-6150
Number
Date
Case #CR-91-359-XA
See hand-written receipt
dated 3-1-91
CASHIER VALIDATION

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
Account: R-001-6150
Number
Date
Please Make Checks Payable To: Baltimore County
CASHIER VALIDATION

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



111 West Chesapeake Avenue
Towson, MD 21204

887-3353

9/10/91

Thomas E. Booth et al
4 Montrose Avenue
Catonsville, Maryland 21228

Re: Petition for Zoning Redistricting, Special Exception & Variance
CASE NUMBER: CR-91-359-XA
N/S Frederick Road, 1025' SE of c/1 Westchester Avenue
64 Frederick Road
1st Election District - 1st Councilmanic
Petitioner(s): Thomas E. Booth; Louis Morsberger; Elmer Morsberger
HEARING: WEDNESDAY, SEPTEMBER 25, 1991 at 10:00 a.m.

Dear Petitioner(s):

This is to advise you that \$100.00 is due for advertising and posting of the above property. This fee must be paid before an order is issued.

THIS FEE MUST BE PAID AND THE RECLASSIFICATION SIGN AND POST RETURNED TO THE BALTIMORE COUNTY ZONING OFFICE ON THE DAY OF THE BOARD OF APPEALS' HEARING OR THE ORDER WILL NOT BE ISSUED.

Please make your check payable to "Baltimore County, Maryland" and immediately mail same to the attention of G. Stephens, Zoning Office, Room 113, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204, before the hearing.

Very truly yours,

J. Robert Haines
J. Robert Haines
Zoning Commissioner

cc: Newton A. Williams, Esq.

NOTICE OF HEARING

Petition for Zoning Redistricting, Special Exception & Variance
CASE NUMBER: CR-91-359-XA
N/S Frederick Road, 1025' SE of c/1 Westchester Avenue
64 Frederick Road
1st Election District - 1st Councilmanic
Petitioner(s): Thomas E. Booth; Louis Morsberger; Elmer Morsberger

APR 18 1991

PROPERTY DESCRIPTION

Beginning at a point on the North side of Frederick Road which is sixty (60) feet wide at the distance of 1,025 feet more or less Southeast to the center line of the nearest improved intersection street, Westchester Avenue, which is fifty (50) feet wide, thence the following courses and distances:

South 53° 50'00" East 179.00 feet
North 35° 10'00" East 170.00 feet
North 50° 41'00" West 103.42 feet
South 27° 14'00" West 45.58 feet
South 31° 13'00" West 141.00 feet

to the place of beginning as recorded in Deed Liber 6640, Folio 395.

Saving and excepting that portion of the above which is zoned D.R. 2 as to the Redistricting and Special Exception Petition(s).

RECLASSIFICATION: Petition to reclassify (redistrict) the property from B.R. to B.R.-C.W.S. zoning.
SPECIAL EXCEPTION: For service station with food store use in combination under 5,000 sq. ft.

VARIANCE: To permit a lot area of 19,373 sq. ft. (B.R. area) in lieu of required 22,152 sq. ft. for the use in combination proposed; to permit driveways 37 ft. wide in lieu of the allowed 35 ft.; to permit business signs totaling 176 sq. ft. in lieu of the allowed 100 ft. (all faces); to permit light standards 16 ft. in height in lieu of the permitted 8 ft. or greater but less than 16 ft.; and to permit location of the 6 ft. screen fence in the D.R.-2 zone due to the difficult topography and flood plain in the B.R. zone.

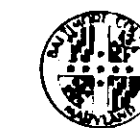
HEARING: WEDNESDAY, SEPTEMBER 25, 1991 at 10:00 a.m.

LOCATION: County Office Building, Room 301
111 W. Chesapeake Avenue
Towson, Maryland 21204

WILLIAM T. HACKETT, CHAIRMAN
County Board of Appeals

cc: Thomas E. Booth, et al
Newton A. Williams, Esq.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning



111 West Chesapeake Avenue
Towson, MD 21204

September 10, 1991

887-3353

Newton A. Williams, Esquire
700 Court Towers
210 W. Pennsylvania Avenue
Towson, MD 21204

RE:

Item No. 1
Case No. R91-359-XA
Petitioner: Thomas E. Booth, et al
Reclassification Petition

Dear Mr. Williams:

This reclassification petition has been timely filed with the Board of Appeals for a public hearing within the October-April reclassification cycle (Cycle V). It has been reviewed by the zoning office as to form and content and has also been reviewed by the Zoning Plans Advisory Committee. The review and enclosed comments from the Committee are intended to provide you and the Board of Appeals with an insight as to possible conflicts or problems that could arise from the requested reclassification or uses and improvements that may be specified as part of the request. They are not intended to indicate the appropriateness of the zoning action requested.

If it has been suggested that the petition forms, descriptions, briefs, and/or the site plans be amended so as to reflect better compliance with the zoning regulations and/or commenting agencies' standards and policies, you are requested to review these comments, make your own judgment as to their accuracy and submit the necessary amendments to this office on or before September 25, 1991. In the event that any requested amendments are not received prior to this date, the petition will be advertised as originally submitted.

In view of the fact that the submitted site plan does not indicate a proposed use at this time, the comments from this Committee are general in nature. If the request is granted and an additional hearing is required at a later date, more detailed comments will be submitted at that time.

R91-359-XA
Newton A. Williams
Page 2

If you have any questions concerning the enclosed comments, please feel free to contact the Zoning Office at 887-3391 or the commenting agency.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. Thomas E. Booth
4 Montrose Avenue
Catonsville, MD 21228

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning



111 West Chesapeake Avenue
Towson, MD 21204

887-3353

Your petition has been received and accepted for filing this
25th day of September, 1991.

Arnold Jablon
DIRECTOR

Received By:

James E. Dyer
Chairman,
Zoning Plans Advisory Committee

Petitioner: Thomas E. Booth, et al

Petitioner's Attorney: Newton A. Williams

MD SHA
Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

April 15, 1991

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204
Attn: Mr. James Dyer

Re: Baltimore County
Zoning Reclassification
Cycle V
Thomas E. Booth Property
N/S Frederick Road
(MD 144) 1025' East of
Westchester Avenue
(Item #1)

Dear Mr. Haines:

We have reviewed the submittal of a special exception for a service station with food store use in combination and have the following comment.

The plan must be revised as shown on the enclosed plan. It is requested these revisions be made prior to a hearing date being set.

If we can be of further assistance, please contact Larry Brocato of this office at 333-1350.

Very truly yours,

John Contestabile, Chief
Engineering Access Permits
Division

LB:maw

cc: Patton Consultants, Ltd. (w-enclosure)
Mr. J. Ogle (w-enclosure)

My telephone number is 301-333-1350 (Fax #333-1041)

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5083 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: June 19, 1991

TO: Mr. J. Robert Haines
Zoning Commissioner

FROM: Rahew J. Famili

SUBJECT: Zoning Reclassification Cycle V

ITEM NUMBER: 1

The existing and the proposed zoning for this site can be expected to generate approximately the same number of vehicle trips per day, that being 230 vehicle trips per day. However, the proposed use shown on the documented site plan can be expected to generate approximately 780 vehicle trips per day.

RJF/lvd

Rahew J. Famili
Rahew J. Famili
Traffic Engineer II

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21204-5500

(301) 887-4500

APRIL 24, 1991

APRIL, 1991 - OCTOBER, 1991 ZONING RECLASSIFICATION CYCLE V

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: THOMAS E. BOOTH; LOUIS MORSBERGER;
ELMER MORSEBERGER

Location: #64 FREDERICK ROAD

Item No.: 1

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: [Signature] Noted and Approved [Signature]
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KEK

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Office of the Zoning Director DATE: August 7, 1992
FROM: LindaLee M. Kuszmaul
County Board of Appeals
SUBJECT: Closed File
Case No. CR-91-359-XA (Thomas E. Booth, et al)

As no further appeals have been taken from the dismissal of appeal filed in the Circuit Court on May 18, 1992 (docket sheet attached referencing said dismissal) in the subject case, we have closed the file and are returning same to you herewith.

Linda

Attachment

cc: Lawrence E. Schmidt
P. David Fields

RECEIVED
AUG 10 1992
ZONING OFFICE

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: April 17, 1991
FROM: Dennis A. Kennedy, P.E.
RE: Zoning Advisory Committee Meeting
for Zoning Redesignation Cycle V
April 1991 - October 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 5 and 7.

For Items 1, 2 and 4, County Review Group Meeting will be required.

For Items 3 and 6, revised County Review Group Meetings will be required

Dennis A. Kennedy
Dennis A. Kennedy, P.E., Acting Chief,
Developers Engineering Division

DAK:s

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Mr. Wirth / SWM (2)(Pre-App Permit only) DATE: September 23, 1991
Mr. Powell / EIRD
Mr. Pilson / W&S
Mr. Flowers / CBCA
Mr. Maranto / Planning
Mr. Richards / Zoning
Mr. Bowling / DED (2)
Mr. Famili / Traffic
Mr. Weiss / Sanitation
Mr. Beaumont / Land Acq.
Ms. Lutz / House Nos.
Capt. Kelly / Fire Dept.
Mr. Kincer / Rec.&Parks
Mr. Brocato / SHA
Mr. Butcher / CSP
Mr. Keller / OP2 Deputy Director (FYI)

FROM: Susan Wimbley
Bureau of Public Services

SUBJECT: District: 1C1
Project Name: Booth Property /
Project No. : 91206 64 Frederick Road
Engineer : Patton Consultants
Phone No. : 296-2140

ACTION REQUESTED:
CRG Plan Review (Meeting Waived) :XX W-91-123J
CRG Plan Refinement Review :
CRG Non-Material Amendment Review :
CRG Plan Approval Extension Review :
Panhandle Minor CRG Plan Review :
Minor Subdivision Review :

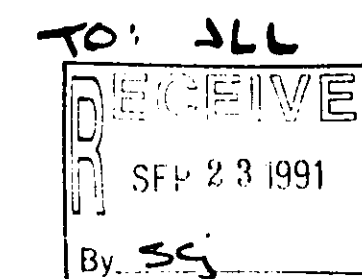
Pre-Approved Building Permits: No

Please provide separate comments for Building Permits.
NOTE: Please detail any comments where permit cannot be approved, but subdivision approval is acceptable.

Please review the attached plan for compliance with current regulations and return comments to our office by 10/14/91. If you have no comments or do not need to review this plan, please indicate by placing your initials here _____.

Thank you for your attention to our request.

SDW:mmm
cc: File



BOOTH PROPERTY
64 Frederick Road
W-91-123

CRG Waiver Plan Review
Plan Date: 9/16/91
Comments For: 10/14/91
Comments Date: 10/9/91
Comments Completed: 10/17/91

This site is the subject of a zoning reclassification and variance hearing in Case Number CR-91-359-XA. This hearing occurred on September 25, 1991. In light of this new case, provide a plan which is in agreement with the approved hearing plan with an up-dated zoning history by case number on the plan including the date of the last Order, what was requested, granted or denied and listing and indicating compliance with any restrictions including, but not necessarily limited to, Case Number CR-91-359-XA.

Due to the changes from the hearing plan, additional zoning hearings required include, but are not necessarily limited to, the following: The sign must be set back 6 feet from the street right-of-way per Section 405.4.A.2.a and the 5 foot curb tangents at property line must be 10 feet per Section 405.4.A.3.a. As discussed prior to petition filing, note "NO FREE-STANDING LUMINARIES WILL EXCEED 8 FEET IN HEIGHT" or show a height distance diagram from the D.R. zone line per Section 405.4.B.5. Compliance with these sections is necessary or additional zoning hearings are required.

Provide an engineering scale elevation on the plan of all existing and proposed free-standing signs clearly indicating the type, height, dimensions, square footage, single or double-face and illumination. All signs must be keyed to their existing or proposed location on the plan print and enough detail must be shown to determine compliance with Section 413.2 and .6 as shown on the hearing plan.

Once an up-dated plan agreeing with the approved public hearing plan is provided, Zoning will review for compliance.

BOOTH PROPERTY
64 Frederick Road
W-91-123
Page 2

Final zoning approval is contingent first, upon all plan comments being addressed on the C.R.G. plan; and secondly, upon the final resolution of all comments, the outcome of any requested zoning hearing and finally, the inclusion of the blue commercial checklist information being included on the building permit site plans.

Any requests for further information from the Zoning Office must include a reference to the waiver file #W-91-123 and written correspondence or revised plans must be accompanied by a copy of these comments.

John D. Lewis
JOHN D. LEWIS
PLANNER II

JLL:scj

cc: Current Planning
Zoning File - CR-91-359-XA
Waiver File

g. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; nor [Bill No. 45, 1982.]

h. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations. [Bill No. 45, 1982.]

502.2--In granting any Special Exception, the Zoning Commissioner or the Board of Zoning Appeals, upon appeal, shall impose such conditions, restrictions, or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties. The owners, lessees or tenants of the property for which a Special Exception is granted, if required by the Zoning Commissioner, or Board of Zoning Appeals, upon appeal, shall enter into an agreement in writing with said Zoning Commissioner and/or the County Commissioners of Baltimore County, stipulating the conditions, restrictions, or regulations governing such Special Exception, the same to be recorded among the Land Records of Baltimore County. The cost of such agreement and the cost of recording thereof shall be borne by the party requesting such Special Exception. When so recorded, said agreement shall govern the exercise of the Special Exception as granted, as to such property, by any person, firm or corporation, regardless of subsequent sale, lease, assignment or other transfer. [B.C.Z.R., 1955.]

502.3--A Special Exception which has not been utilized within a period of two years from the date of the final order granting same, or such longer period not exceeding five years, as may have been specified therein, shall thereafter be void. The Zoning Commissioner or, on appeal, the County Board of Appeals, in connection with the grant of any Special Exception, shall fix within the foregoing limits, the period of time for its utilization. Any party to the proceedings may, by so specifying, appeal from either the order of the Zoning Commissioner or of the County Board of Appeals as the case may be, solely as to the reasonableness of the period of time allowed or, alternatively, may have such question determined in conjunction with any appeal from the grant or refusal of the application for a Special Exception. After a final order granting a Special Exception the Zoning Commissioner, at any time prior to expiration of the period of time authorized for its utilization, may grant one or more extensions of such period, provided that a maximum time for utilization of the Special Exception is not thereby extended for a period of more than five years from the date of the final order granting same. [B.C.Z.R., 1955; Bill No. 42, 1962; No. 85, 1967.]

A Special Exception which requires any construction for its utilization shall be deemed to have been used within its authorized time if such construction shall have commenced during the authorized period, or any extension thereof, provided said construction is thereafter pursued to completion with reasonable diligence. [Bill No. 42, 1962; No. 85, 1967.]

Notwithstanding the above provisions, in any case where a Special Exception in effect on or after January 1, 1957 cannot be utilized within the maximum allowable time because of inadequacy or unavailability of public sewer or water facilities, the Zoning Commissioner shall extend such time for utilization to a date eighteen months after such facilities become adequate and available, as evidenced by the ability to obtain a public works agreement permitting exercise of the Special Exception. A copy of the extension order shall be sent by the Zoning Commissioner to the Director of Public Works, who shall give certified or registered mail notice when such public works agreement is obtainable, to the party, and for the property, named in the extension order at the address shown in said order, except that the party named in the extension order, by certified or registered mail notice to the Director of Public Works and the Zoning Commissioner, may change the name of the party to receive such notice from the public works Director, or the address to which said notice is to be sent, or both. The date on which the notice is sent by the Director of Public Works to the last party of record with him, at the last address furnished, shall be the commencement date for the running of the eighteen month extension period in which there must be utilization of the Special Extension. [Bills No. 85, 1967; No. 68, 1968.]

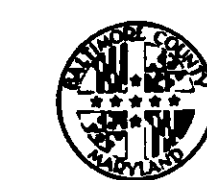
Anyone having a Special Exception for an automotive service station shall have such exception automatically extended for a period of five (5) years after said property is designated as a district in accordance with the automotive service stations regulations of Baltimore County. [Bill No. 85, 1967.]

502.4--The building size, shape, and location, the accessory uses, and the number of dwelling units authorized under any special exception for an elevator apartment building or office building granted pursuant to the zoning regulations in effect before (effective date of bill) shall not be affected by the enactment of Bill No. (number), [year of passage]. [Bill No. 100, 1970.]

502.5--In addition to consideration of the requirements imposed generally on the issuance of special exceptions by Section 502.1 of these regulations, the following special

APPROVED JUL 0 1 1989

5-10



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

October 28, 1991

Newton A. Williams, Esquire
NOLAN, PLUMHOFF & WILLIAMS, CHTD.
Suite 700, Court Towers
210 W. Pennsylvania Avenue
Towson, MD 21204-5340

Re: Case No. CR-91-359-XA (Thomas E. Booth; Louis Morsberger and Elmer Morsberger)

Dear Mr. Williams:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Sincerely,
LindaLee M. Kuszmaul
LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Mr. Thomas E. Booth, et al
Mr. James Earl Kraft
People's Council for Baltimore County
P. David Fields
Pat Keller
Lawrence E. Schmidt
Timothy W. Kotroco
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon - Director
Zoning Administration

5-9

APPROVED JUL 0 1 1989



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

November 29, 1991

Phyllis C. Friedman
People's Counsel for Baltimore County
Room 304, County Office Building
Towson, Maryland 21204

Re: Case No. CR-91-359-XA (Thomas E. Booth, et al)

Dear Mrs. Friedman:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Linda Lee M. Kuszmaul
LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Mr. James Earl Kraft
P. David Fields
Patrick Keller
Lawrence E. Schmidt
Timothy M. Kotroco
James E. Dyer
W. Carl Richards, Jr.
✓Docket Clerk - Zoning
Arnold Jablon, Director of
Zoning Administration

RECEIVED
NOV 29 1991

ZONING OFFICE



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

December 18, 1991

Newton A. Williams, Esquire
NOLAN, PLUMHOFF & WILLIAMS, CHTD.
Suite 700, Court Towers
210 W. Pennsylvania Avenue
Towson, Maryland 21204-5340

Re: Case No. CR-91-359-XA (Thomas E. Booth, et al)

Dear Mr. Williams:

Enclosed please find a copy of the Ruling on Motion to Reconsider or to Vacate issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Sincerely,

Linda Lee M. Kuszmaul
LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Mr. Thomas E. Booth, et al
Mr. James Earl Kraft - Baltimore County Board of Education
Phyllis C. Friedman, Esquire
People's Counsel for Baltimore County
P. David Fields
Pat Keller
Lawrence E. Schmidt
Timothy M. Kotroco
James E. Dyer
W. Carl Richards, Jr.
Docket Clerk - Zoning
✓Arnold Jablon, Director
Zoning Administration

RECEIVED
DEC 19 1991

ZONING OFFICE

THOMAS E. BOOTH, ET AL

#CR-91-359-XA
Item #1, Cycle V
1991

11/21/91

Motion to Reconsider or to Vacate filed by Newton A. Williams, Esquire, on behalf of Petitioners; requesting Board to reconsider its Opinion and Order dated October 28, 1991.

CR-91-359-XA
#1
TRANSMITTAL

DATE: 3/5/91
Proj No: 9108
RE: 64 Frederick Road-Booth

TO: Mr. Carl Richards
Baltimore County, Md.
County Office Building

ATTN:

TRANSMITTED VIA
☐ Fax No. ()
☐ Messenger

WE ARE PLEASED TO SEND YOU:
☒ Attached ☐ Under separate cover

THE FOLLOWING ITEMS:
☐ Sketch Drawings ☐ Plans ☐ Reports ☐
☐ Prints ☐ Specifications ☐ Copy of Letter

COPIES	DATE	DESCRIPTION	DWG. NO.
4		Environmental Site Assessment	

THIS TRANSMITTAL IS
☐ For your approval ☐ Your documents returned after loan ☐ Approved with exceptions noted
☒ At your request ☐ To us ☐ Returned for corrections
☐ For review and comment ☐ Approved as submitted

FURTHER ACTION REQUIRED
☐ Resubmit _____ copies for approval ☐ Submit _____ copies for distribution ☐ Return _____ corrected prints

REMARKS: If any questions, please call.

COPY TO

SIGNED:

James S. Patton
If enclosures are not as noted, please notify us at once.

CIRCUIT COURT FOR BALTIMORE COUNTY
CIVIL CATEGORY Appeal

ATTORNEYS

IN THE MATTER OF THE APPLICATION OF
THOMAS E. BOOTH, LOUIS MORSBERGER AND
ELMER MORSBERGER, APPEALANTS,
FOR A ZONING RECLASSIFICATION, ETC., FOR
64 FREDERICK ROAD

Newton A. Williams
700 Court Towers
210 W. Pennsylvania Avenue
(04) 823-7800

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY,
APPELLEE

Phyllis Cole Friedman
Peter Max Zimmerman
111 W. Chesapeake Ave.
Room 304
21204 887-2188

(1) Nov 27, 1991 Appellants Order for Appeal from the Order of the County Board of Appeals of Baltimore County, fd. (CR-91-359-XA)

(2) Nov. 29, 1991 - Certificate of Notice, fd.

(3) Nov. 29, 1991 - Certificate of Notice, fd.

(4) Dec 20, 1991 Petition for appeal, fd.

(5) Jan. 6, 1991 - Stipulation for extension of time and Order of Court Granting Same, fd. (EAD, JR.)

(6) Jan 10, 1992 Appearance of Phyllis Cole Friedman and Peter Max Zimmerman as Attorneys for the Appellee and same day answer, fd.

COSTS
CV GEN 801
CV CLM 67
CV LRY 17
POST 17
CHICKEN TL 67
HODGES 2002 RO 17
CV GEN 801
CV CLM 67
CV LRY 17
POST 17
CHICKEN TL 67
HODGES 2002 RO 17

Joe Morea
4 Frederick Road
Ellicott City, Maryland 21043

October 17, 1991

The Honorable Michael B. Sauer, Esquire
Chairman
The Honorable Judson H. Lipowitz, Esquire
Board Member
The Honorable John G. Disney, Esquire
Board Member
County Board of Appeals
3rd Floor, County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: The Booth Property
64 Frederick Road
Case No.: CR-91-359-XA

Dear Mr. Sauer, Mr. Lipowitz, and Mr. Disney:

I own the properties at 4 Frederick Road and 6 Oella Avenue, Baltimore County, Maryland, 21043. This property is about 800 feet West of 64 Frederick Road. My property is now being used as a gasoline station and selling snowballs and sodas. I only opened the station, after I bought it, to satisfy the people of the community and to help meet my mortgage, while I developed plans to improve the property. I am going to close this station in the near future. The three (3) four thousand (4000) gallon gasoline storage tanks, at this location, are too small to operate the gasoline station efficiently. There are also many new costly underground storage tank regulations that I must comply with. With the reasons stated above, I have decided to close the station and use the space for other retail or office use.

The reason I am writing is to ask you to look favorably on the Variance Petition CR-91-359-XA for 64 Frederick Road. I was unable to make the zoning petition hearing on September 25, 1991; but if I had been there, I would have stated that this area needs a gasoline station. There will be none in this area, when I close.

Since I am the owner/operator of the gasoline station, at 4 Frederick Road; and, have owned and operated the bar, restaurant, and carry out adjacent to the station, for the last ten (10) years, I am very qualified to state that the people living in this area need a gas station/convenience store.

00-91-359-11 13016

LAW OFFICES
NOLAN, PLUMHOFF & WILLIAMS
CHARTERED
SUITE 700, COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5340
(301) 823-7800
TELEFAX (301) 296-2765

October 1, 1991

The Honorable Michael B. Sauer, Esquire
Chairman
The Honorable Judson H. Lipowitz, Esquire
Board Member
The Honorable John G. Disney, Esquire
Board Member
County Board of Appeals
3rd Floor, County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: The Booth Property
64 Frederick Road
Case No.: CR-91-359-XA

Dear Mr. Sauer, Mr. Lipowitz, and Mr. Disney:

Following the conclusion of the testimony, on September 25th, several important items have occurred to me and to my clients regarding this property.

First of all, this property is part of a B.R. Zone which stretches along the Patapsco River and runs clear to the main street in Ellicott City, and it contains easily fifteen (15) stores, including, but not only a food market. Furthermore, a shopper is not going to make a distinction between the Baltimore County, Howard County line, and in fact this property forms a part of a convenience neighborhood shopping district, and should have been so recognized.

As I previously pointed out at the Hearing, the B.R. and B.L. Zone at the intersection of West Chester Avenue and Oella Avenue have both been recognized with a CNS District, although they are small in size, and this is a further indication of the manner in which the CNS District has been historically applied by the Council.

00-91-359-11 13016

LAW OFFICES
NOLAN, PLUMHOFF & WILLIAMS
CHARTERED
SUITE 700, COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-5340
(301) 823-7800
TELEFAX (301) 296-2765

December 23, 1991

HAND DELIVERED

Phyllis C. Friedman, Esquire
People's Counsel Office
Room 304
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Booth - 64 Frederick Road

Dear Phyllis:

Enclosed please find a Stipulation to be executed by you to extend time. The original has been hand delivered to your offices today. Please execute it and I will file it promptly. The record is due the 8th of January, and Carolyn needs extra time.

With best regards of the season, I am,

Sincerely,

Newton A. Williams
Newton A. Williams

NAM/psk

Enclosure

cc: Thomas E. Booth
Louis Morsberger
Elmer Morsberger
James S. Patton, P.E.

11-91-359-11 13016

A circular stamp featuring a clock face with numbers 1 through 12. The date "JUL 15 1991" is printed across the center of the clock face.

Cycle V, 1991

May 31, 1991



Petitioner's Ex
#2

THOMAS E. BOOTH,
ELMER MORSBERGER,
LOUIS MORSBERGER,
OWNERS

CASE NO. CR-91-359-XA

**PETITIONER'S
EXHIBIT**

P_C Ltd.
Patton Consultants, Ltd.
 305 W. CHESAPEAKE AVE., SUITE 305
 TOWSON, MARYLAND 21204
 (301) 296-2140 Fax: (301) 296-0419

**SITE PLANNERS • ENGINEERS
 LAND DEVELOPMENT CONSULTANTS**

SITE PHOTOGRAPHS - 64 FREDERICK ROAD CASE NO. CR-91-359-XA



1. Looking west toward Ellicott Mills, Frederick Road Rte. 144

2. Same direction - Patapsco River to the left.



SITE PHOTOGRAPHS - 64 FREDERICK ROAD

CASE NO. CR-91-359-XA



3. View of existing site looking North West.

4. Existing Frederick Road - two (2) lane-wide shoulders.

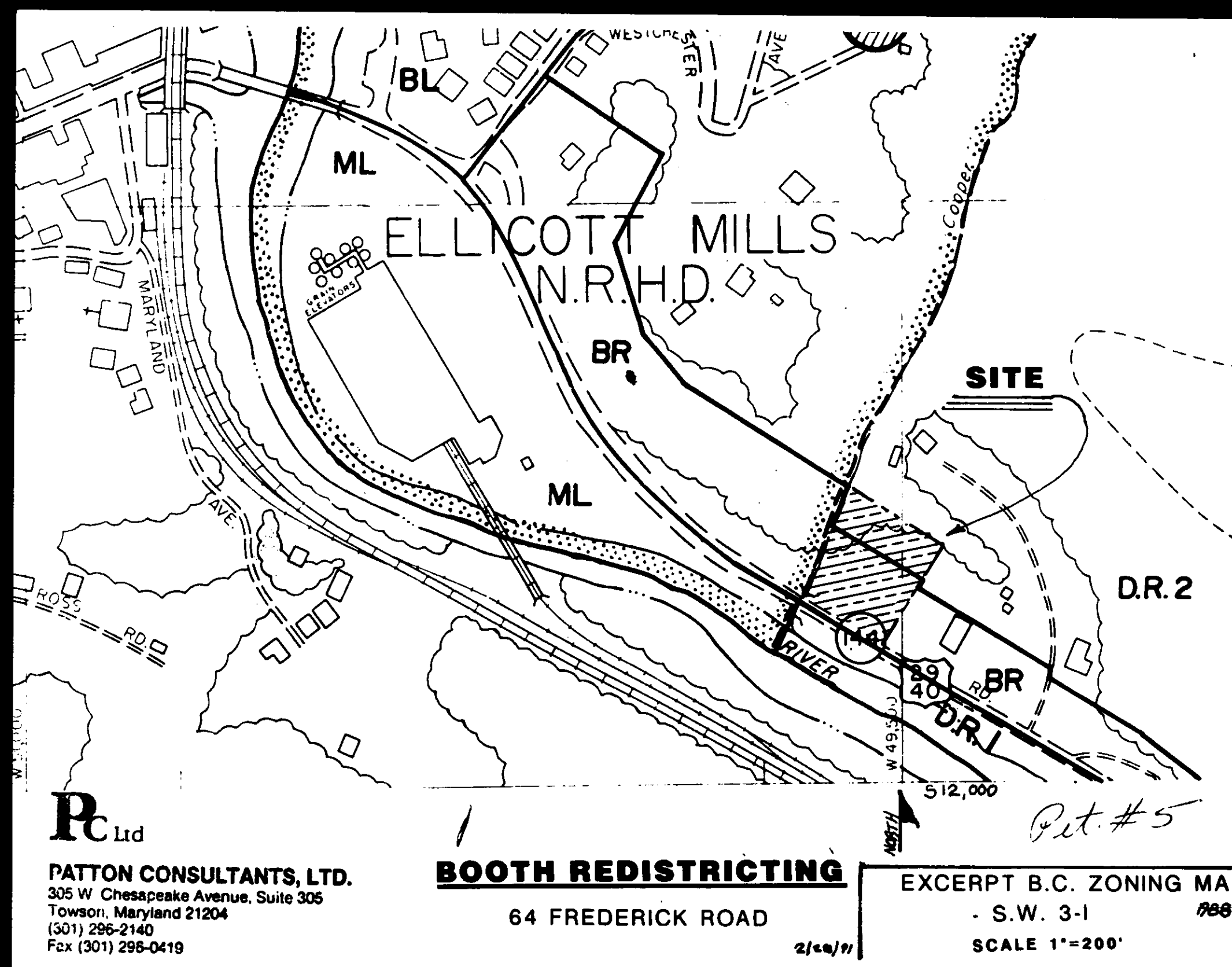
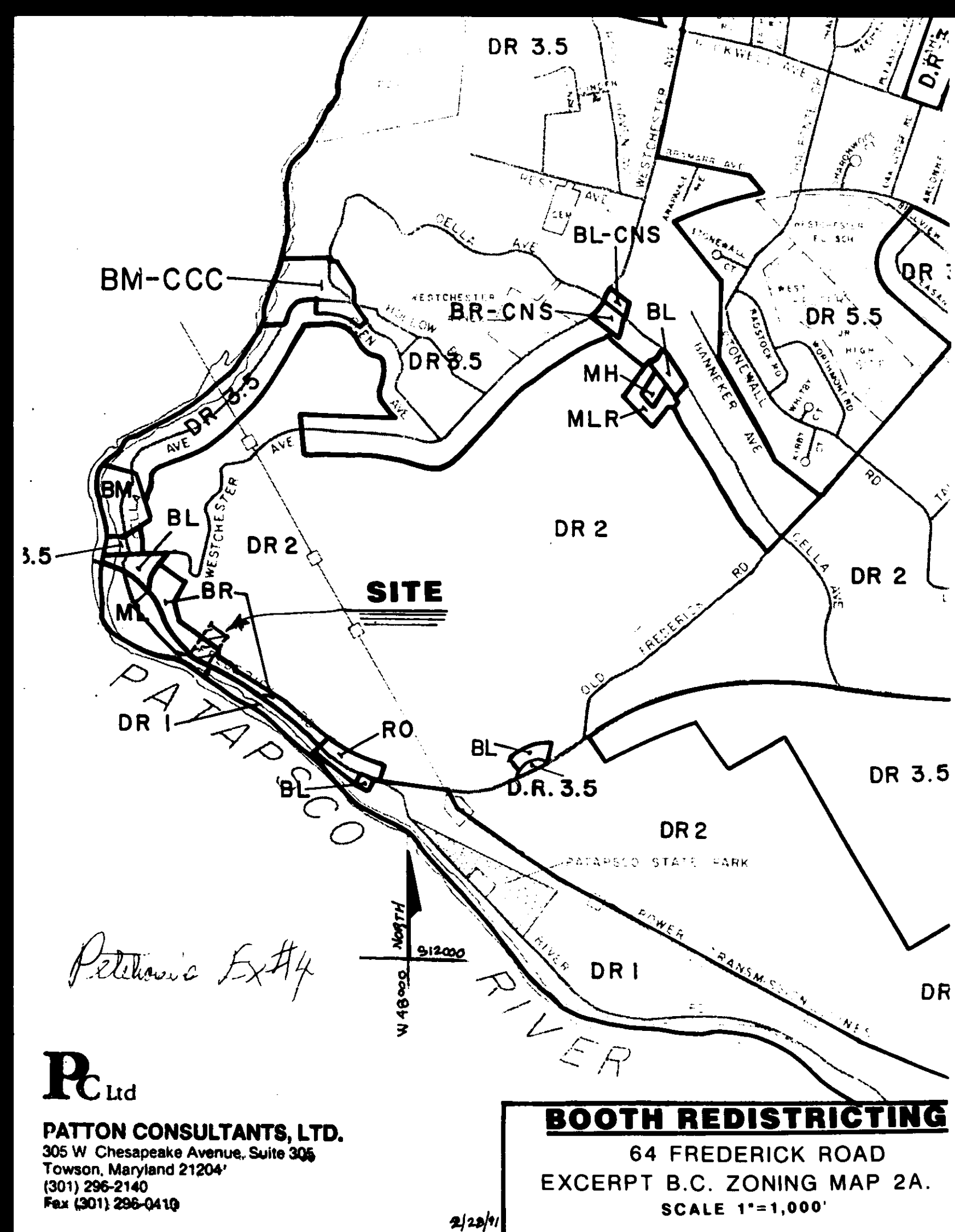


SITE PHOTOGRAPHS - 64 FREDERICK ROAD CASE NO. CR-91-359-XA



5. View to the North East - Cooper Creek to the left-existing warehouse to right.

6. View to North - note sheer rock face 60 vertical feet \pm .



#1
CR-91-359-XA

Geotechnical
Consulting Services



Phase I
Environmental Site Assessment
64 Frederick Road
Ellicott City, Maryland
ATEC Project No. 31-70034



April 15, 1991

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Attn: Mr. James Dyer

Re: Baltimore County
Zoning Reclassification
Cycle V
Thomas E. Booth Property
N/S Frederick Road
(MD 144) 1025' East of
Westchester Avenue
(Item #1)

Dear Mr. Haines:

Dear Mr. Haines:

We have reviewed the submittal of a special exception for a service station with food store use in combination and have the following comment.

The plan must be revised as shown on the enclosed plan.

It is requested these revisions be made prior to a hearing date being set.

If we can be of further assistance, please contact Larry Brocato of this office at 333-1350.

Very truly yours,

Very truly yours,

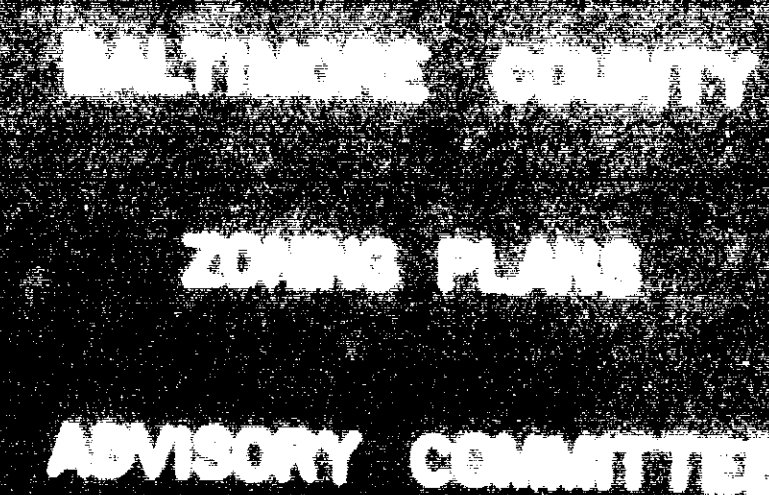
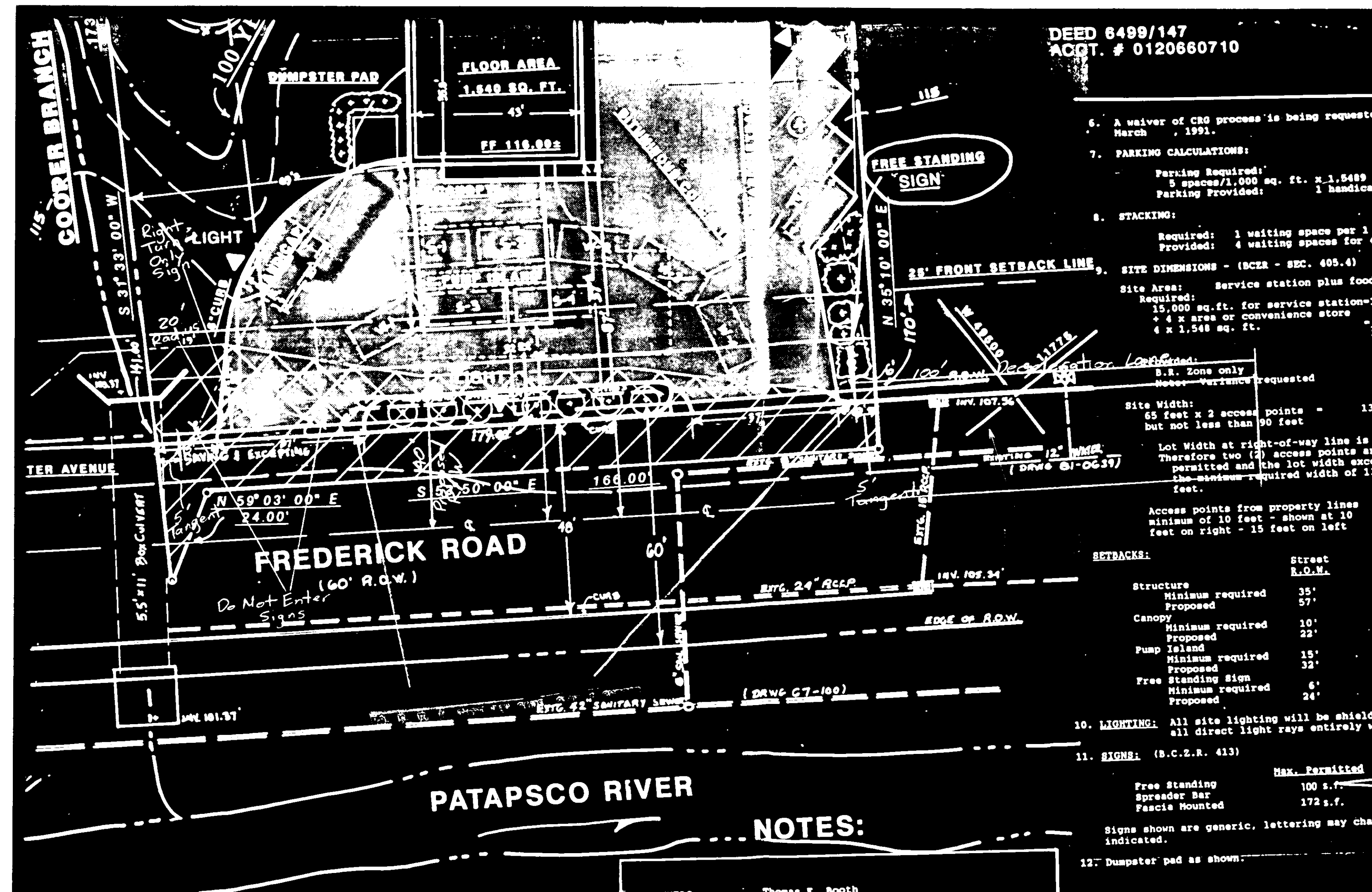
John Contestabile, Chief
Engineering Access Permits
Division

LB:maw

cc: Patton Consultants, Ltd. (w-enclosure)
Mr. J. Ogle (w-enclosure)

My telephone number is 301-333-1350 (Fax #333-1041)

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-6717



Petitioner's
EX#

PETITION AND SITE PLAN

EVALUATION COMMENTS	
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
29	
30	
31	
32	
33	
34	
35	
36	
37	
38	
39	
40	
41	
42	
43	
44	
45	
46	
47	
48	
49	
50	
51	
52	
53	
54	
55	
56	
57	
58	
59	
60	
61	
62	
63	
64	
65	
66	
67	
68	
69	
70	
71	
72	
73	
74	
75	
76	
77	
78	
79	
80	
81	
82	
83	
84	
85	
86	
87	
88	
89	
90	
91	
92	
93	
94	
95	
96	
97	
98	
99	
100	

